12-12-80
Vol. 45 No. 241
Pages 81725-82150

Federal Register

Friday
December 12, 1980

Highlights

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

81814 **Grant Programs—Education** ED invites applications for new projects under the Emergency School Aid Act; apply by 9-30-81

81813 **Education** ED gives notice of interpretation on distribution of Federal Vocational Education Funds by State Boards for Vocational Education

81728 **Health** OPM amends regulations on benefits under the Federal Employees Health Benefits Program for individuals in medically underserved areas; effective 1-1-81

81881 **Banking** FDIC revises uniform policy for classification of consumer credit based on delinquency status; effective 12-12-80

82014 **Over-the-Counter Drugs** HHS/FDA publishes a proposal regarding vaginal contraceptive drug products for over-the-counter human use; comments by 3-12-81; reply comments by 4-13-81 (Part V of this issue)

81740 **Mobile Homes** HUD/Sec'y publishes regulations regarding relocation of mobile home occupants displaced by a HUD-assisted project that is subject to Uniform Relocation Assistance and Real Property Acquisition; effective 3-2-81

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 $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 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.

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

Highlights

81878 **Banking** EXIMBANK provides for expansion of part-time employment opportunities in the Federal Service; comments by 2-10-81

82080 **Architectural Barriers** ATBCB revises proposed regulations regarding compliance with standards for access to and use of buildings by handicapped persons; comments by 2-10-81 (Part VIII of this issue)

81764 **Health** OPM proposes amending the Federal Employees Health Benefits survivor annuitant coverage; comments by 2-10-81

81787 **Postal Service** PS publishes proposal regarding enclosures with special fourth-class matter; comments by 1-11-81

82084 **Surface Mining** Interior/SMREO establishes minimal requirements for training and certifying persons involved in blasting in surface coal mining operations; effective 1-12-81 (Part IX of this issue)

81785 **Labor Standards** Labor/Sec'y proposes to amend labor standards for Federal Service Contracts; comments by 1-12-81

81739 **Electronic Products** HHS/FDA amends regulations dealing with importation of electronic products to make clear that regulations apply to all products subject to established standards; effective 12-12-80

81781 **Indians** Interior/BIA proposes to modify existing regulations regarding Indian Child Welfare Act; comments by 1-12-81

81743 **Income Tax** Treasury/IRS publishes final regulations relating to discharge of liabilities on the sale or other disposition of property

Privacy Act Documents

82102 Commerce
81906 PADC

81921 **Sunshine Act Meetings**

Separate Parts of This Issue

81950 **Part II, Labor/ESA**
82007 **Part III, Interior/HCRS**
82010 **Part IV, USDA/FS**
82014 **Part V, HHS/FDA**
82052 **Part VI, HHS/FDA**
82066 **Part VII, CPSC**
82080 **Part VIII, ATBCB**
82084 **Part IX, Interior/SMREO**
82102 **Part X, Commerce/Sec'y**

Contents

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

Agricultural Marketing Service
RULES
81731 Lemons grown in Ariz. and Calif.
81731 Papayas grown in Hawaii

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration.
NOTICES
Senior Executive Service:
81801 Performance Review Boards; membership
81801 Bonus awards schedule

Animal and Plant Health Inspection Service
RULES
Plant pest regulations:
81728 Mediterranean fruit fly

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
82080 Handicapped persons; standards for access and use of buildings; attorney's fees and costs

Arts and Humanities, National Foundation
NOTICES
Meetings:
81904 Humanities Panel

Commerce Department
See also International Trade Administration; Maritime Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.
RULES
82102 Privacy Act; implementation
NOTICES
Laboratory Accreditation Program, National Voluntary:
81804 Thermal insulation materials, concrete, and carpet; granting of accreditation
Meetings:
81805 International Laboratory Accreditation Conference; U.S. delegation
82105 Privacy Act; systems of records; annual publication

Consumer Product Safety Commission
PROPOSED RULES
Practice rules:
82066 Sunshine Act meetings and meetings between agency personnel and outside parties

Defense Department
See Defense Mapping Agency, Engineers Corps.

Defense Mapping Agency
NOTICES
81807 Privacy Act; systems of records; correction

Economic Regulatory Administration
NOTICES
Consent orders:
81815 Amendt Oil Co.
81816 Lundells Inc.
81818 Vaughn Petroleum Inc.
Natural gas; fuel oil displacement certification applications:
81816 Capco Pipe Co., Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
81817 Pacific Gas & Electric Co. et al.

Education Department
NOTICES
Grant applications and proposals, closing dates:
81814 Emergency School Aid Act; planning and transitional grants
Meetings:
81812 Federal Impact Aid Program Review Commission
81813 Vocational education funds, Federal; distribution by State boards; interpretation

Employment and Training Administration
PROPOSED RULES
Migrant and other seasonally employed farmworkers programs:
81768 Public agencies eligible for grant awards under Comprehensive Employment and Training Act, clarification of requirements

Employment Standards Administration
PROPOSED RULES
81785 Federal service contract labor standards; concession contracts
NOTICES
81950 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions, Ala., Calif., Conn., D.C., Idaho, Md., Minn., Miss., Mo., Nebr., Ohio., Pa., Tex., Utah, Va., and Wis.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission, Hearings and Appeals Office, Energy Department; Western Area Power Administration.
NOTICES
Meetings:
81815 National Petroleum Council

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
81812 Olympic Games 1984, new construction and refurbishment projects; Los Angeles, Calif.
81811 Sepulveda Basin master plan, Calif.; regional park

Environmental Protection Agency
RULES
Funding assistance limitations:
81746 California
81752 Kentucky

Hazardous waste program, State; interim authorizations:
81758 North Dakota
81757 Utah
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
81789 Colorado
81792 Ohio
81793 West Virginia
NOTICES
Environmental statements; availability, etc.:
81866 Agency statements; weekly receipts
Pesticide registration, cancellation, etc.:
81869 Carbaryl; rebuttable presumption against registration
Pesticides; emergency exemption applications:
81878 Diazinon
81877 Terramycin
Toxic and hazardous substances control:
81876 Premanufacture notices receipts
Water pollution; discharge of pollutants (NPDES):
81876 Georgia

Equal Employment Opportunity Commission
NOTICES
81921 Meetings; Sunshine Act

Ethical Problems in Medicine and Biomedical and Behavioral Research, President's Commission for the Study of
NOTICES
81907 Meetings

Export-Import Bank
NOTICES
81878 Part-time employment for Federal employees; inquiry

Farm Credit Administration
RULES
81733 National Environmental Policy Act; implementation; policy statement

Federal Communications Commission
RULES
Common carrier services:
81759 Intercity private line services during emergencies; priority system for restoration
PROPOSED RULES
Radio broadcasting:
81797 AM stereophonic broadcasting; special relief; extension of time
Television broadcasting:
81796 Television channel allotments; extension of time
NOTICES
Hearings, etc.:
81880 Western Connecticut Broadcasting Co. et al.

Federal Deposit Insurance Corporation
NOTICES
81881 Delinquent consumer installment loans classification; policy statement

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
81833 American Hydro Power Co.
81818 Beaver Valley Power Co.
81834 Boeing Co.
81819-81824 Cascade Water Power Development Corp. (7 documents)
81824, 81860 Cities Service Gas Co. (2 documents)
81835 Colorado Interstate Gas Co.
81825, 81826 Continental Hydro Corp. (2 documents)
81827 El Paso Natural Gas Co.
81835 Great Lakes Gas Transmission Co.
81836 Kansas-Nebraska Natural Gas Co., Inc.
81835 Keating, Joseph M.
81836 Kentucky West Virginia Gas Co.
81828 Louisiana Resources Co.
81836 Michigan Wisconsin Pipe Line Co.
81828 Mid Louisiana Gas Co.
81840 Mid-Louisiana Gas Co. et al.
81837 Mitchell Energy Co., Inc.
81829 Northern Natural Gas Co.
81838 Northwest Pipeline Corp.
81829 Ohio Edison Co. et al.
81838 Panhandle Eastern Pipe Line Co.
81838 Phillips Petroleum Co.
81838 Powers, Ronnie
81830 Public Service Co. of Oklahoma
81839 Southwest Gas Corp.
81831 Symons, William, Jr.
81839 Tennessee Gas Pipeline Co.
81840 Texas Eastern Transmission Corp.
81832 Transcontinental Gas Pipe Line Corp.
81830 Transcontinental Gas Pipe Line Corp. et al.
81832 Trunkline Gas Co.
81833 Worumbo Hydro, Inc.
81921 Meetings; Sunshine Act
Natural gas companies:
81830 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (2 documents)
Natural Gas Policy Act of 1978:
81842, 81847, 81854 Jurisdictional agency determinations (3 documents)

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
Mortgage and loan insurance programs:
81781 Mobile home loans; mortgage limit increase; Congressional waiver request

Federal Maritime Commission
NOTICES
81882 Agreements filed, etc.
Financial reports; applications for permission to submit alternative data:
81883 Tropical Shipping & Construction Co., Ltd.
Freight forwarder licenses:
81883 Lehat-Schwartz Shipping Corp., et al.
81883 Pegasus International Co.
81921 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
81884 Central Bancorporation, Inc.
81884 Colorado National Bankshares, Inc.; correction

81885 Schertz Bancshares Corp.
Bank holding companies; proposed de novo nonbank activities:
81884 U.S. Bancorp et al.
81921 Meetings; Sunshine Act

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
81737 American Cyanamid Co.; sponsor address change
81738 Monensin feed blocks
81738 Sterile ampicillin trihydrate suspension
Food for human consumption:
81734 Milk and cream; stabilizers and emulsifiers in lowfat milk and skim milk
Radiological health:
81739 Electronic products importation; applicability
PROPOSED RULES
Human drugs:
82014 Vaginal contraceptive (OTC); monograph establishment
Medical devices:
81769 Premarket approval; procedures
NOTICES
Committees; establishment, renewals, terminations, etc.:
81889 Technical Electronic Product Radiation Safety Standards Committee
Human drugs:
82052 Duplicate drug products of post-1962 drugs; "paper NDA policy"; continued implementation
Medical devices:
81886 Barnes-Hind two-part chemical disinfection regimen for contact lenses; premarket approval
Meetings:
81887 Advisory committees, panels, etc. (2 documents)
81889 Tomato juice; identity standards deviation; temporary permit for market testing

Food Safety and Quality Service
PROPOSED RULES
Meat and poultry inspection, mandatory:
81764 Marking devices for imported products; hexagon-shaped brands for imported horsemeat and other equines

Forest Service
NOTICES
Environmental statements; availability, etc.:
81801 Bitterroot National Forest, land and resource management plan, Idaho and Mont.
Wilderness study areas:
82010 Oil and gas and mineral leasing applications; scheduling and analysis processes to comply with National Environmental Policy Act; inquiry

General Accounting Office
NOTICES
Committees; establishment, renewals, terminations, etc.:
81885 Railroad Accounting Principles Board
81885 Regulatory reports review; proposals, approvals, violations, etc. (CAB)

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See Food and Drug Administration.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
81860 Cases filed
81861 Decisions and orders

Heritage Conservation and Recreation Service
NOTICES
Environmental statements; availability, etc.:
82006 Pinelands National Reserve, N.J.; comprehensive management plan

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing; Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.
RULES
81740 Relocation assistance and real property acquisition policies; final; mobile home occupants

Immigration and Naturalization Service
RULES
81732 Aliens; representation and appearances; clarifying right to representation

Indian Affairs Bureau
PROPOSED RULES
Social welfare:
81781 Indian Child Welfare Act; implementation
NOTICES
81890 Indian tribes, acknowledgment of existence; petition
81890 Indian trust and restricted estates; probate fees cancellation

Interior Department
See Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
81743 Property; discharge of liabilities on sale or other disposition

International Trade Administration
NOTICES
Antidumping:
81802 Iron metal castings from India

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
81799 Vehicles, loading and unloading responsibility; information required on bills and receipts; extension of time
Tariffs and schedules:
81799 Motor carrier joint rates and through rates; cancellation
NOTICES
81892 Hearing assignments
Motor carriers:

81897 Intercorporate hauling operations; intent to engage in
81894, 81896 Permanent authority applications (2 documents)

Justice Department
See also Immigration and Naturalization Service.
RULES
Organization, functions, and authority delegations:
81745 Drug Enforcement Administration Regional Directors; increase to $500 in ruling on tort claims

Labor Department
See also Employment and Training Administration; Employment Standards Administration.
NOTICES
Adjustment assistance:
81898 Chrysler Corp.
81898 Cummings Leather Co.
81898 Eagle Clothes, Inc.
81899 EX-CELL-O Corp.
81899 EX-CELL-O Corp.; correction
81899 Federal American Partners et al.
81900 Ford Motor Co.
81901 Hoover Universal, Inc.
81901 Interlake, Inc.
81902 Mr. Fine, Inc.
81902 National Steel Corp. et al.
81902 North American Tractor Plant
81903 Seward Luggage Co.
81904 Uniroyal, Inc.
81904 United Technologies Corp.
81904 Westover Knitting Mills

Land Management Bureau
NOTICES
Meetings:
81890 Baker District Advisory Council
81890 Carson City District Multiple Use Advisory Council
81890 National Public Lands Advisory Council
81891 Outer Continental Shelf Advisory Board

Maritime Administration
NOTICES
Applications, etc.:
81806 Boston VLCC Tankers, Inc.II

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
81803 Gulf of Mexico Fishery Management Council

National Park Service
NOTICES
Environmental statements; availability, etc.:
81891 Fort Pickens Unit, Gulf Islands National Seashore, Fla.; development concept plan
Meetings:
81892 Santa Monica Mountains National Recreation Area Advisory Commission

National Technical Information Service
NOTICES
81803 Inventions, Government-owned; availability for licensing

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary
RULES
81743 Neighborhood self-help development program requirements; correction

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
81905 Long Island Lighting Co.
81921 Meetings; Sunshine Act

Nuclear Safety Oversight Committee
NOTICES
81906 Meetings

Pennsylvania Avenue Development Corporation
NOTICES
81906 Privacy Act; systems of records; annual publication

Personnel Management Office
RULES
Excepted service:
81725 Education Department
81725 Interior Department
Health benefits, Federal employees:
81728 Benefits for members of medically underserved areas; final
Reduction in force:
81725 Competitive level placement, retention register, length of service, etc.
PROPOSED RULES
Health benefits, Federal employees:
81764 Survivor annuitant coverage
NOTICES
81906 Privacy Act; systems of records; annual publication; correction

Postal Service
PROPOSED RULES
Domestic Mail Manual:
81787 Enclosures with special fourth-class matter

Rural Electrification Administration
RULES
Electric borrowers:
81732 Power requirements data base (Bulletin 120-1)
NOTICES
Loan guarantees, proposed:
81802 North Carolina Electric Membership Corp.
81801 Tri-State Generation and Transmission Association, Inc.
81802 Wabash Valley Power Association, Inc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
81907 A.T.A. Industries, Inc.
81908 American Empire Mutual Fund, Inc.

81908 Columbia Gas System, Inc., et al.
81910 Continental Bank of Canada
81913 Florida Mutual U.S. Government Securities Fund, Inc.
81915 Middle South Utilities, Inc., et al.
81917 Public Service Co. of Oklahoma et al.
81917 Letters; no-action and interpretive; procedures
81922 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
81908 American Stock Exchange, Inc.

Small Business Administration
RULES
Nondiscrimination:
81734 Financial assistance programs; "American National Standard Specifications for Making Building and Facilities Accessible to and Usable by Physically Handicapped", implementation
NOTICES
Applications, etc.:
81918 DBT Capital Corp.
81919 New Mexico Capital Corp.
81920 Watchung Capital Corp.
Disaster areas:
81918 Alaska
81919 Iowa
81919 New Hampshire
81919 New Mexico
81920 Wisconsin
81920 Senior Executive Service Performance Review Board; membership

State Department
RULES
Visas:
81739 Nonimmigrant, issuance, facsimile signature of issuing officer and automated issuing system use
PROPOSED RULES
81778 Consular services; fee changes

Surface Mining Reclamation and Enforcement Office
RULES
82084 Blasters and members of blasting crews; training and certification programs

Textile Agreements Implementation Committee
NOTICES
81806 Cotton and wool textiles from Macau

Treasury Department
See also Internal Revenue Service.
NOTICES
Tax treaties, income:
81920 Model Estate and Gift Tax Treaty; technical explanation

Veterans Administration
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
81787 Headstone or marker, Government furnished; increase in payment

Western Area Power Administration
NOTICES
81865 Sacramento Area Office; power marketing plan

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
81904 Humanities Panel, Washington, D.C., various January 1981 dates

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
81803 Gulf of Mexico Fishery Management Council, Metairie, La., 1-7-81

EDUCATION DEPARTMENT
81812 Commission on the Review of the Federal Impact Aid Program, Arlington, Va., 1-29-81, Washington, D.C., 1-30-81

ENERGY DEPARTMENT
81815 National Petroleum Council, Environmental Conservation Committee, Coordinating Subcommittee, Washington, D.C., 2-4-81

ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH, PRESIDENT'S COMMISSION FOR THE STUDY OF
81907 Meeting, Washington, D.C., 1-9 and 1-10-81

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
81887 Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel, Silver Spring, Md., 1-15 and 1-16-81
81887 Endocrinologic and Metabolic Drugs Advisory Committee, Rockville, Md., 1-12 and 1-13-81
81887 Gastrointestinal Drugs Advisory Committee, Rockville, Md., 1-12 and 1-13-81
81887 Miscellaneous Internal Drug Products Panel, Chevy Chase, Md., 1-31 and 2-1-81

INTERIOR DEPARTMENT
Land Management Bureau—
81890 Baker District Advisory Council, Baker, Oreg., 1-2-81
81890 Carson City District Multiple Use Advisory Council, Carson City, Nev., 1-9-81
81890 National Public Lands Advisory Council, Las Vegas, Nev., 1-12 and 1-13-81
81891 Outer Continental Shelf Advisory Board, Mid-Atlantic Technical Working Group, Philadelphia, Pa., 1-13 and 1-14-81
National Park Service—
81892 Santa Monica Mountains National Recreation Area Advisory Commission, Ventura, Calif., 1-6-81

NUCLEAR SAFETY OVERSIGHT COMMITTEE
81906 Meeting, Phoenix, Ariz., 12-16 and 12-17-80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category.

PRODUCT SAFETY

82066 Sunshine Act meetings and meetings between agency personnel and outside parties; Consumer Product Safety Commission; Proposed Rules.

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 (2 documents).....81725
351.....81725
890.....81728
Proposed Rules:
890.....81764

7 CFR
331.....81728
910.....81731
928.....81731
1701.....81732

8 CFR
292.....81732

9 CFR
Proposed Rules:
312.....81764
316.....81764

12 CFR
Ch. VI.....81733

13 CFR
113.....81734

15 CFR
4b.....82102

16 CFR
Proposed Rules:
1011.....82066
1012.....82066
1013.....82066

20 CFR
Proposed Rules:
689.....81768

21 CFR
131.....81734
510.....81737
520.....81738
540.....81738
1005.....81739
Proposed Rules:
351.....82014
814.....81769

22 CFR
41.....81739
Proposed Rules:
22.....81778

24 CFR
42.....81740
3610.....81743
Proposed Rules:
201.....81781

25 CFR
Proposed Rules:
23.....81781

26 CFR
1.....81743

28 CFR
0.....81745

29 CFR
Proposed Rules:
4.....81785

30 CFR
850.....82084

36 CFR
Proposed Rules:
1150.....82080

38 CFR
Proposed Rules:
3.....81787

39 CFR
Proposed Rules:
111.....81787

40 CFR
Ch. I (2 documents).....81746, 81752
123 (2 documents).....81757, 81758
Proposed Rules:
52 (3 documents).....81789, 81792, 81793

47 CFR
64.....81759
Proposed Rules:
73 (2 documents).....81796, 81797

49 CFR
Proposed Rules:
1051.....81799
1310.....81799

Rules and Regulations

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

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; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Appointing authorities for positions concerned with problems in education jointly financed by the Department and a cooperating State educational agency, university or college, and for 50 positions filled by bona fide elementary and high school teachers to advise on education policies, practices and procedures, are transferred from the Department of Health and Human Services to the Department of Education to reflect transfer of function. Exception of these positions from the competitive service remains appropriate because it is still impracticable to examine for them.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Edith Henderson, Department of Education, 202-245-8736.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR *213.3116(c) and 5 CFR 213.3216(a) are revoked and 5 CFR 213.3117(a) and 5 CFR 213.3217(b) are added as follows:*

§ 213.3116 Department of Health and Human Services.

* * * * *

(c) [Revoked]

* * * * *

213.3117 Department of Education.

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

* * * * *

§ 213.3216 Department of Health and Human Services.

(a) [Revoked]

* * * * *

§ 213.3217 Department of Education.

* * * * *

(b) Fifty positions, GS-7 through GS-11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

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

[FR Doc. 80-38571 Filed 12-11-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions of Territorial Management Interns in the Office of the Assistant Secretary, Territorial and International Affairs, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. Trusteeship, are excepted under Schedule A because it is impracticable to hold an examination for them. The name of the office has been changed from Office of Territories.

EFFECTIVE DATE: October 23, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Morris Simms, Department of the Interior, 202-343-6761.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the headnote of 5 CFR 213.3112(e) is changed from Office of Territories to Office of the Assistant Secretary, Territorial and International Affairs, and 5 CFR 213.3112(e)(2) is added as set out below:

§ 213.3112 Department of the Interior.

* * * * *

(e) Office of the Assistant Secretary, Territorial and International Affairs

* * *

(2) Not to exceed 4 positions of Territorial Management Interns, grades GS-5, GS-7, or GS-9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. Trusteeship. Employment under this authority may not exceed 6 months.

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

[FR Doc. 80-38570 Filed 12-11-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These regulations: (1) Preclude the placement of employees in separate reduction in force competitive levels solely on the basis of their coverage under either (a) the Merit Pay System provisions of the Civil Service Reform Act, or (b) the provisions of the Reform Act requiring a probationary period for new supervisors and managers; (2) provide that the positions of other-than-full-time employees are not placed in separate competitive

levels solely on the basis of differences in the work schedules of employees who would otherwise be placed in the same competitive level; (3) clarify how agencies both establish and release employees from competitive levels; and (4) clarify how agencies establish the service date used in the determination of employee reduction in force retention standing.

These changes are intended to clarify OPM's reduction in force policies.

EFFECTIVE DATE: January 12, 1981.

FOR FURTHER INFORMATION CONTACT: Ted Dow or Tom Glennon, (202) 632-4422.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1980, OPM published proposed regulations in the Federal Register (45 FR 44304) that would clarify how agencies establish reduction in force competitive levels. The 60-day period for interested parties to submit written comments ended on September 2, 1980.

The regulations do not represent a change in OPM's reduction in force policies.

Discussion of Comments

We received eleven written comments concerning the proposed regulations: five from agencies, five from labor organizations, and one from an individual.

One agency suggested that we include material in proposed § 351.403(b)(1)(i) that is covered in proposed § 351.403(b)(3). Specifically, the agency felt that this further revision would emphasize that positions covered by the Merit Pay System are considered to be under the General Schedule for reduction in force purposes.

After reviewing this agency's suggestion, we decided not to revise § 351.403(b)(1)(i) on the basis that further revision was unnecessary. Employees under the Merit Pay System are General Schedule employees for all purposes except that of setting pay within the range of the General Schedule. In addition, employees must first be in a General Schedule position to even be covered by the merit pay provisions. Thus, merit pay employees are not under a separate pay schedule for reduction in force purposes. We believe that proposed § 351.403(b)(1)(i) and simplified § 351.403 adequately explain these provisions.

Two unions were concerned that proposed § 351.403(b)(3) could result in the establishment of competitive levels consisting of merit pay employees, specifically employees in supervisory positions, and employees who are not covered by the Merit Pay System. Both unions expressed concern that this situation could lead to conflicts of interest if management employees were in direct first round competition with bargaining unit employees for remaining positions.

One agency had a similar concern. Specifically, this agency felt that if a position meets the definition for being designated under merit pay, this in itself should distinguish the position enough to place it in a separate competitive level.

The purpose of our proposed § 351.403(b)(3) was to explain that agencies may not establish reduction in force competitive levels solely on the basis of employee coverage under the Merit Pay System. Instead, agencies must apply all of the factors set forth in § 351.403 (a) and (b) in establishing reduction in force competitive levels. In the absence of proposed § 351.403(b)(3), agencies might have assigned employees to competitive levels primarily because of merit pay coverage without regard to other factors (e.g., merit pay employees who might have properly been assigned to separate competitive levels might have been assigned to the same competitive level because of coverage under the Merit Pay System).

Two factors that are used to establish reduction in force competitive levels (i.e., duties and responsibilities) may also be applicable to a determination that an employee is covered by merit pay. For example, an employee's supervisory duties may be a principle factor in an agency's decision that the employee may appropriately be included under the Merit Pay System. These same supervisory duties would also be a factor when the agency considers what competitive level the employee should be assigned to for reduction in force purposes. Thus, a supervisory employee would not be assigned to a competitive level that included nonsupervisory employees since, under § 351.403, a competitive level consists of jobs that are so alike that the agency can readily assign the incumbent of any one position to any other position in the competitive level.

After full consideration of the comments from the two unions and the agency, we have decided to revise proposed § 351.403(b)(1) to clarify that supervisory and managerial positions are assigned to separate competitive levels under § 351.403. Section 351.403(b)(1)(vi) now specifically provides that supervisors and management officials, as defined in 5 U.S.C. 7103(a) (10) and (11), are placed in separate competitive levels. This change is intended to emphasize that the complete § 351.403, rather than managerial discretion, determines what employees are included in a competitive level. In a related change, proposed § 351.403(b)(3) is simplified to better complement revised § 351.403(b)(1)(vi).

Two agencies suggested that we clarify that employees serving in full-time positions are placed in competitive levels that are separate from the competitive levels of employees serving in other-than-full-time positions. We agree that further revision would be useful and proposed § 351.403(b)(1) is revised to specifically provide that an agency must establish separate competitive levels for positions that are filled on a full-time basis.

An individual suggested in a comment that proposed § 351.403(b)(1) be revised to provide that full-time and other-than-full-time employees are placed in the same competitive level, subject to the other factors set forth in § 351.403. This change would permit the reassignment of full-time employees to other-than-full-time positions held by employees having lower retention standing in first round reduction in force competition. In second round reduction in force competition, full-time employees could displace less-than-full-time employees. Although not specifically addressed in the comment, these changes would permit other-than-full-time employees to displace full-time employees with lower retention standing.

Our proposed §§ 351.403 (b)(1)(i) through (b)(1)(iv) use language that is indentical to that presently found in §§ 351.403 (b)(1) through (b)(4). Specifically, proposed §§ 351.403 (b)(1)(ii) through (b)(1)(iv) reflect longstanding policy that full-time employees are placed in competitive levels that are separate from other-than-full-time employees, and that employees serving under different types of other-than-full-time appointments (i.e., part-time, seasonal, or intermittent) are, in turn, also placed in separate competitive levels. We have no plans at present to change this policy, which is intended to provide that other-than-full-time employees compete under Part 351 of this title on equal terms with full-time employees. (For reference, on June 20, 1980, OPM published final Part 351 regulations in the Federal Register (45 FR 41628) that clarify the assignment rights of full-time employees to other-than-full-time positions.)

One agency suggested that we delete the reference to 5 U.S.C. 3341 from proposed §§ 351.404(a)(3) and 351.404(b)(3). This suggested revision would provide that the retention register

includes any employees on detail, regardless of the specific authority.

In drafting the proposed regulations, we considered the question of what statutory references, if any, should be incorporated into the text of the regulations in order to explain how employees on detail compete for retention under Part 351 of this title. After a review of our alternatives, we found that agencies might raise questions concerning employee coverage if we omitted all statutory references in our proposed regulations since the majority of the different types of details provided for in Subchapter III of Chapter 33, Title 5, U.S.C., are applicable to employees who are excluded from coverage under OPM's reduction in force regulations. Thus, for clarity, we included in the proposed regulations a statutory reference to 5 U.S.C. 3341, the principal authority for details within the Executive branch.

After a further review of the proposed regulations, we have decided to modify the final regulations to provide that the retention register includes employees on detail from the competitive level under authority of 5 U.S.C. 3341 or other appropriate authority. This approach should better explain to agencies how to determine the retention standing of employees covered by Part 351 of this title who might, depending on the circumstances, be on detail under any available authority.

The other comments we received concerning the proposed regulations either supported our proposed changes or had no specific objections.

Modification of the Proposed Regulations

As a result of the written comments we received and our own further consideration of the regulations published at 45 FR 44304, we have made the following specific changes in the final regulations, as indicted below:

(1) Section 351.403(b)(1) is revised to clarify that employees serving in full-time positions are placed in competitive levels that are separate from the competitive levels of employees serving in other-than-full-time positions. Specifically, § 351.403(b)(1)(ii) now provides that an agency must establish separate competitive levels for positions that are filled on a full-time basis. In a related editorial change, proposed §§ 351.403 (b)(1)(ii) through (b)(1)(iv) are now redesignated §§ 351.403 (b)(1)(iii) through (b)(1)(v).

(2) Section 351.403(b)(1)(vi) is added to provide that supervisors and management officials, as defined in 5 U.S.C. 7103(a) (10) and (11), are placed in competitive levels that are separate from those that include other employees. In a related editorial change, proposed § 351.403(b)(3) is now simplified because of the addition of § 351.403(b)(1)(vi).

(3) Section 351.404(a)(3) is revised to provide that the retention register is prepared from the current retention records of employees detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority. The revised language encompasses employees who may be on detail under any appropriate authority which is available to a given agency.

(4) Section 351.404(b)(3) is revised to provide that the retention register includes the names of all employees, listed in the order of retention, who are detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority. Again, this revised language covers employees who may be on detail under any appropriate authority.

(5) Proposed § 351.503(c) is redesignated § 351.503(d). Section 351.503(c) now includes final provisions published in the Federal Register on September 23, 1980 (45 FR 62972) that cover the crediting under Part 351 of this title of military service performed by an employee who is a retired member of a uniformed service.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

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

Accordingly, 5 CFR Part 351 is amended as follows:

1. Section 351.403(b) is revised to read as follows:

§ 351.403 Competitive level.

* * * * *

(b)(1) Each agency shall establish separate competitive levels for competitive positions, as distinguished from excepted positions. Among competitive positions and among excepted positions, each agency shall establish separate competitive levels for positions that are:

(i) Under different pay schedules;
(ii) Filled on a full-time basis;
(iii) Filled on a seasonal basis;
(iv) Filled on a part-time basis; or
(v) Filled on a intermittent basis;
(vi) Filled by a supervisor or management official, as defined in 5 U.S.C. 7103(a)(10) and (11).

(2) Among excepted positions, each agency shall establish separate competitive levels for positions filled under different appointment authorities.

(3) Employees covered by the Merit Pay System provisions are General Schedule employees for all reduction in force purposes.

(4) A probationary period required by Subpart I of Part 315 of this title upon initial appointment to a supervisory or managerial position does not constitute a basis for establishing a separate competitive level.

(5) Differences in work schedules among other-than-full-time employees who would otherwise be assigned to the same competitive level do not constitute a basis for establishing separate competitive levels.

2. Section 351.404(a) and (b) are revised to read as follows:

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees:

(1) In the competitive level;
(2) Temporarily promoted from the competitive level; or
(3) Detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority.

(b) Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of his or her retention standing, the name of each competing employee who is:

(1) In the competitive level;
(2) Temporarily promoted from the competitive level; or
(3) Detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority.

* * * * *

3. Section 351.503 is revised to read as follows:

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects his or her total creditable service, and the service credit rating provided under this part:

(1) The date the employee entered on duty, when he or she has no previous creditable service;
(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or
(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for a performance rating under § 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active services in the armed forces if the employee meets one of the conditions included under § 351.501(h) of this title.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

4. Section 351.601 is revised to read as follows:

§ 351.601 General.

(a) An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(1) A specifically limited temporary appointment;

(2) A specifically limited temporary promotion;

(3) A performance rating of less than "Satisfactory" in an agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Subpart B or Part 430 of this title; or

(4) A written decision under § 432.204(a) of removal or demotion from the competitive level because of "Unacceptable Performance," as defined in § 432.202 of this title.

(b) An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing, except:

(1) As required under § 351.606 when an employee is retained under a mandatory exception or under § 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under § 351.607 when an employee is retained under a permissive continuing exception or under § 351.608 when an employee is retained under a permissive temporary exception.

(5 U.S.C. 1302, 3502)

[FR Doc. 80-38570 Filed 12-11-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program; Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management is amending its regulations on benefits under the Federal Employees Health Benefits (FEHB) Program for individuals in medically underserved areas. This amendment is necessary to comply with a recent amendment to the FEHB law which mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Compensation Group, Office of Pay and Benefits Policy (202-632-4684.)

SUPPLEMENTARY INFORMATION: On July 18, 1980, the Office of Personnel Management published in the Federal Register (45 FR 48098) a new Subpart G "Benefits in Medically Underserved Areas" under 5 CFR, Part 890, as final regulations. Subpart G pertains to administration of 5 U.S.C. 8902(m)(2), as added to the Federal Employees Health Benefits (FEHB) law by Public Law 95-368, approved September 17, 1978, and amended by Public Law 96-179, approved January 2, 1980. The law provides that effective January 1, 1980, and continuing through December 31, 1984, FEHB plans (except comprehensive prepayment medical plans), whose contracts specify payment or reimbursement for care or treatment of a particular health condition, must also provide benefits up to the limits of their contracts in return for health services rendered by any medical practitioner who is properly licensed to render such service, when the health service is provided to a plan member "in a State where 25 percent or more or the population is located in primary medical care manpower shortage areas designated under section 332 of the Public Health Service Act."

By comparing State-by-State statistics furnished by the Department of Health and Human Services with U.S. census figures on State resident populations (Current Population Reports, Series P-25, No. 876, February 1980), OPM has determined that 5 U.S.C. 8902(m)(2), as amended by Public Law 96-179, is applicable in the following 12 States as of January 1, 1981: Alabama, Alaska, Indiana, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota and West Virginia. The determination differs from OPM's 1980 determination in that four newly eligible states have been added—Kentucky, Indiana, North Carolina, and North Dakota while the states of Nevada and Wyoming have been deleted.

Each year while this provision of the FEHB law remains in effect, OPM will review current data on primary medical care manpower shortage areas and State populations. If OPM determines that the status of any State has changed for purposes of 5 U.S.C. 8902(m)(2), OPM will again publish an amendment to its regulations (5 CFR Part 890, Subpart G).

OPM has determined that this is a non-significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, in 5 CFR 890.701, the paragraph headed "Medically underserved area" is revised to read as follows:

§ 890.701 Definitions.

* * * * *

"Medically underserved area" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The Office has determined that the following states are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Indiana, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, and West Virginia.

(Public Law 96-179)

[FR Doc. 80-38682 Filed 12-11-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Plant Pest Act this document amends the Mediterranean fruit fly regulations by adding areas in Alameda County in California to the list of regulated areas; by deleting the listed area in Los Angeles County in California from the list of regulated areas; by providing a methyl bromide treatment for bell peppers; by deleting cantaloupe, chayote, cucumber, egg plant, melon, pumpkin, and watermelon from the list

of regulated articles; and by adding scientific names for the remaining articles listed as regulated articles. These actions are necessary as emergency measures for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States; and for the purpose of lessening or deleting unnecessary restrictions on the movement of articles.

DATES: Effective date of amendments is December 12, 1980. Written comments concerning this final rule must be received on or before February 10, 1981.

ADDRESS: Written comments should be submitted to H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "significant".

Emergency Action

The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the possibility that Mediterranean fruit fly could be spread artifically to noninfested areas of the United States, situations exist requiring immediate action to better control the spread of this pest. Also, due to the finding that unnecessary restrictions are imposed concerning the regulation of articles, a situation exists requiring immediate action to lessen or delete such unnecessary restrictions.

Further, 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 emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning the final rule. Comments should bear a reference to the date and page numbers of this issue of the Federal Register. All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

Background

The Mediterranean fruit fly, *Ceratitis capitata* Wiedeman, is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. It can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

Because of infestations of the Mediterranean fruit fly found in California in areas in Los Angeles County and Santa Clara County, emergency Mediterranean fruit fly regulations were published in the Federal Register on July 29, 1980 (45 FR 50318-50324), and amendments to the regulations were published in the Federal Register on August 15, 1980 (45 FR 54302-54304) and September 12, 1980 (45 FR 60402-60403). The regulations and amendments thereof became effective on the dates of publication and are set forth in 7 CFR 331.1 through 331.1-9. For the reasons explained below, it is necessary to amend these regulations on an emergency basis pursuant to sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee).

Alameda County and Los Angeles County

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the regulations restrict the interstate movement from the regulated areas in California of articles designated as regulated articles. Prior to the effective date of this document areas in Los Angeles County and Santa Clara County were designated as regulated areas.

Based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has spread into areas in Alameda County. Therefore, in order to prevent the further spread of the Mediterranean fruit fly it is necessary as an emergency measure to amend § 331.1-2(c) of the regulations (7 CFR 331.1-2(c)) to add to the list of regulated areas the following areas in Alameda County in which the Mediterranean fruit fly now occurs:

These areas of Alameda County within the city limits of Fremont and within the city limits of Newark; and that portion of Alameda County beginning at the junction of Palomares Road, State Highway 84, and the Fremont city limit line, then westerly along the Fremont city limit line to its junction with the Alameda County Flood Control Channel, then westerly along said Channel to its junction with Dry Creek, then northerly along Dry Creek to its junction with Whipple Road, then easterly on Whipple Road to its junction with State Highway 238, then easterly from said junction along an imaginary line to its junction with the northernmost point of the Fremont city limit line, then due east for three miles on an imaginary line, then due south along another imaginary line to its junction with State Highway 84, then westerly along State Highway 84 to the point of the beginning.

Also, it has now been determined based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California that the Mediterranean fruit fly no longer occurs in the area in Los Angeles County that has been designated as a regulated area. Therefore, as an emergency measure, such area in Los Angeles County is deleted from the list of regulated areas in order to delete unnecessary restrictions on the interstate movement of regulated articles.

Treatment for Bell Peppers

It is also necessary, as an emergency measure to amend § 331.1–9 of the regulations (7 CFR 331.1–9) which sets forth treatments for certain regulated articles. Under the regulations a regulated article from a regulated area would be eligible for interstate movement pursuant to a certificate if, among other things, it had been treated in accordance with § 331.1–9 of the regulations, and would be eligible for interstate movement pursuant to a limited permit if it were moving under certain conditions contains to a specified destination for such treatment.

Based on research, it has been determined that there is a treatment for bell peppers that would be adequate to destroy the Mediterranean fruit fly. This treatment consists of fumigating bell peppers with methyl bromide at normal atmospheric pressure with 32 g/m^3 for 2½ hours at 21°C. (70°F) or above. This treatment for bell peppers should be added to § 331.1–9 of the regulations on an emergency basis in order to relieve unnecessary restrictions by allowing the interstate movement of bell peppers from regulated areas in those instances where the risk of spreading the pest to noninfested areas can be eliminated. However, based on experience it appears that the methyl bromide treatment can reduce the shelf life of bell peppers to between 5 to 7 days because of pitting on the skin of the pepper, darkening of the seed and placental material, and internal decay resulting from killing of the stem and calyx. Accordingly, a note explaining the possible problems which could be caused by the methyl bromide treatment is added to § 331.1–9 of the regulations for informational purposes.

Deletions From the List of Regulated Articles

It is further necessary to amend § 331.1–1(k)(1) of the regulations (7 CFR 331.1–1(k)(1)) to delete certain articles from the list of regulated articles. Articles that were specified in § 331.1–1(k)(1) are those articles that were determined to be likely to cause the artificial spread of the Mediterranean fruit fly. However, based on a further review of scientific literature [1] regarding the articles listed as regulated articles, it has been determined that certain of those articles, i.e., cantaloupe, chayote, cucumber, eggplant, melon, pumpkin, and watermelon, are not likely to cause the artificial spread of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of the above named articles from regulated areas, it is necessary as an emergency measure to amend § 331.1–1(k)(1) of the regulations by deleting the above named articles from the list of regulated articles.

Also, treatments for the destruction of the Mediterranean fruit fly were provided for bitter melons, cucumbers and eggplants in § 331.1–9 of the regulations. Treatments are provided in the regulations for the purpose of providing a means to allow the interstate movements of regulated articles from regulated areas. However, since melons (including bitter melons), cucumbers, and eggplants are deleted from the list of regulated articles there is no longer reason to include treatments for bitter melons, cucumbers, or eggplants. Therefore, § 331.1–9 is amended to delete provisions relating to bitter melons. cucumbers, and eggplants.

Scientific Names for Regulated Articles

In addition, it is necessary as an emergency measure to amend § 331.1–1(k)(1) of the regulations to add scientific names for those articles remaining on the list of regulated articles. These articles have been listed solely by their common names. However, it appears that some common names can vary within different areas in the United States. Therefore, in order to help clarify what articles are intended to be included by the common names of regulated articles, the scientific names of such articles are added in parenthesis after the common names.

Amendments to Regulations

Accordingly, the Mediterranean fruit fly regulations, which, as noted above, became effective on July 29, 1980, and were amended on August 15, 1980, and September 12, 1980 (45 FR 50318–50324, 54302–54304, 60402–60403) are further amended as follows:

1. The list of regulated areas in California in § 331.1–2(c) of the regulations (7 CFR 331.1–2(c)) is amended by deleting the listing for Los Angeles County and by adding areas in Alameda County immediately before the listing for Santa Clara County as follows:

§ 331.1–2 Regulated areas.

* * * * *

(c) * * *

Alameda County. Those areas of Alameda County within the city limits of Fremont and within the city limits of Newark; and that portion of Alameda County beginning at the junction of Palomares Road, State Highway 84, and Fremont city limit line; then westerly along the Fremont city limit line to its junction with the Alameda County Flood Control Channel; then westerly along said Channel to its junction with Dry Creek; then northerly along Dry Creek to its junction with Whipple Road; then easterly on Whipple Road to its junction with State Highway 238; then easterly from said junction along an imaginary line to its junction with the northernmost point of the Fremont city limits; then due east for three miles on an imaginary line; then due south along another imaginary line to its junction with State Highway 84; then westerly along State Highway 84 to the point of the beginning.

* * * * *

2. Section 331.1–9 of the regulations (7 CFR 331.1–9) is amended by deleting "Bitter melon," from paragraph (b), by deleting "eggplant," from paragraph (d), and by deleting paragraph (f) which related to cucumbers and by substituting in lieu thereof a new paragraph (f) relating to bell peppers to read as follows:

§ 331.1–9 Treatments.

* * * * *

(f) Bell peppers:

Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m^3 for 2½ hours at 21°C. (70°F.) or above.

Note.—Bell peppers have been found marginally tolerant to methyl bromide fumigation. Shelf life after treatment is reduced to between 5 to 7 days. Injury may appear as pitting on the skin of the pepper, darkening of the seed and placental material, and internal decay resulting from killing of the stem and calyx.

* * * * *

3. Section 331.1–1(k)(1) of the regulations (7 CFR 331.1–1(k)(1) is revised to read as follows:

§ 331.1–1 Definitions.

* * * * *

(k) * * *

(1) The following fruits, vegetables and berries:

Almond (*Prunus duleis* (*P. amygdalus*))
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Calamondin orange (*Citrus mitis*)
Cherries (sweet and sour) (*Prunus avium, Prunus cerasus*)
Citrus citron (*Citrus medica*)
Date (*Phoenix dactylifera*)
Fig (*Ficus carica*)
Grape (*Vitis vinifera*)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*)

[1] A list of this literature can be obtained from Chief Staff Officer, Plant Importation and Technical Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, USDA, Federal Building, 6505 Belcrest Road, Room 667, Hyattsville, MD 20782.

Japanese persimmon (*Diospyros kaki*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantiifolia*)
Loquat (*Eribotrya japonica*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Mock orange (*Murraya exotica*)
Mountain apple (*Syzygium mallaccense* (*Eugenia malaccensis*))
Natal plum (*Carissa macrocarpa* and *Terminalia chebula*)
Nectarine (*Prunus persica*)
Olive (*Olea europea*)
Opuntia cactus (*Opintia* spp.)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepper (*Capsicum annuum* and *Capsicum frutescens*)
Pineapple guava (*Feijoa sellowiana*)
Pummelo (shaddock) (*Citrus grandis*)
Pomiform guajava (*Psidium guajava pomeriferum*)
Plum (*Prunus americana*)
Prune (*Prunus domestica*)
Pyriferm guajava (*Psidium guajava pyriferum*)
Quince (*Cydonia oblonga*)
Rose apple (*Syzygium jambos* (*Eugenia jambos*))
Sour orange (*Citrus aurantium*)
Spanish cherry (Brazilian plum) (*Eugenia dombeyi* (*E. brasiliensis*))
Strawberry guava (*Psidium cattleianum*)
Surinam cherry (*Eugenia uniflora*)
Sweet orange (*Citrus sinensis*)
Tomato (pink and red ripe) (*Lycopersicon esculentum*)
White sapote (*Casimiroa edulis*)
Yellow oleander (bestill) (*Thevetia peruviana*)

Except that the list does not include any fruits, vegetables, or berries which have been canned, or frozen below −17.8°C (0°F);

* * * * *

(Sections 105 and 106, 71 Stat. 32 and 33; 7 U.S.C. 150dd, 150ee; 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 9th day of December 1980.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services, U.S. Department of Agriculture.

[FR Doc. 80-38650 Filed 12-11-80; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 283; Lemon Reg. 282, Amdt.1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 14–20, 1980, and increases the quantity of such lemons that may be so shipped during the period December 7–13. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective December 14, 1980, and the amendment is effective for the period December 7–13, 1980.

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

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

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 9, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and 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), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.583 is added as follows:

§ 910.583 Lemon Regulation 283.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period December 14, 1980, through December 20, 1980, is established at 240,000 cartons.

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

2. Paragraph (a) of § *910.582 Lemon Regulation 282* (45 FR 80481) is amended to read as follows:

§ 910.582 Lemon Regulation 282.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period December 7, 1980, through December 13, 1980 is established at 250,000 cartons.

* * * * *

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

Dated: December 10, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-38671 Filed 12-11-80; 11:41 am]
BILLING CODE 3410-02-M

---

7 CFR Part 928

Papayas Grown in Hawaii; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1981 fiscal year, to be collected from handlers to support activities of the committee which locally administers the Federal marketing order covering Payayas grown in Hawaii.

DATES: Effective January 1, 1980, through December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available on request from Mr. McGaha.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

This final rule is issued under Marketing Order No. 928 (7 CFR Part 928), regulating the handling of payayas grown in Hawaii. This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Papaya Administrative Committee, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and 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). The order requires that the rate of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which begins January 1, 1981. To enable the committee to meet fiscal obligations, approval of the expenses and assessment rate is necessary. 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.

Therefore, a new § 928.210 is added to read as follows: (this section expires December 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 928.210 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Papaya Administrative Committee during the period January 1, 1981, through December 31, 1981, will amount to $462,500.

(b) The rate of assessment for said year payable by each handler in accordance with § 928.41 is fixed at $0.006 per pound of papayas.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal year ending December 31, 1980, shall be carried over as a reserve in accordance with § 928.42.

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

Dated: December 9, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-38574 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby requires the submission of Form 7b, "Power Requirements Data Base," by its borrowers. The submission provides for the consolidation of financial and statistical data and for the automation of data handling by REA. This action will reduce borrower reporting requirements by eliminating Forms 156, 733a, 5, and 736 as required by Bulletin 120–1, "Development, Approval, and Use of Power Requirements Studies," and by eliminating the completion of parts "M" and "N" of Form 7a and parts "D" and "E" of Form 7. Bulletin 120–1 will be amended to show the elimination of forms.

Data presently used as a base for power requirements is shown on various forms. Form 7b will consolidate this data on a single source. Copywork, the source of a substantial number of errors, will be eliminated with the new form. Data will be organized to be adaptable to electronic processing.

Adaption of Form 7b will (1) greatly reduce burden on borrowers, (2) decrease time required to complete studies, (3) reduce errors in records, and (4) increase ease of preparing data for analysis.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This regulation will become effective January 1, 1981, provided that approval of the OMB is received by that date. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in the rule, REA will revise the rule as necessary to comply with the decision of OMB. REA will publish a notice in a future issue of the Federal Register concerning OMB's decision on these requirements.

FOR FURTHER INFORMATION CONTACT: Gerald O. Stephens, Chief, Energy Forecasting Branch, Rural Electrification Administration, Washington, D.C. 20250, (202) 447–6108. The Final Impact Statement describing the options considered is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified as "not significant."

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: December 4, 1980.

Susan T. Shepherd,

Acting Administrator.

[FR Doc. 80-38588 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 292

Representation and Appearances: Clarifying Right to Representation

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: Present Immigration and Naturalization Service regulations state that whenever an examination is provided for by the regulations, the person involved has the right to be represented by an attorney or representative for such proceeding. This right to representation does not apply to a person who is being processed through primary or secondary inspection at a port of entry. This document clarifies the existing rule to avoid possible confusion as to when the right to representation attaches.

EFFECTIVE DATE: January 12, 1981.

FOR FURTHER INFORMATION CONTACT: For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W.; Washington, D.C. 20536 Telephone: (202) 633–3048.

FOR SPECIFIC INFORMATION: Paul W. Schmidt, Deputy General Counsel, Immigration and Naturalization Service, 425 Eye Street, N.W.; Washington, D.C. 20536, Telephone: (202) 633–2895.

SUPPLEMENTARY INFORMATION: 8 CFR 292.5(b) states that whenever an examination is provided for by Service regulations, the person involved has the right to be represented by an attorney or representative for such proceeding. This right to representation does not apply to a person who is being processed through primary or secondary inspection at a port of entry. Every alien seeking to enter the United States must apply in person at a place designated as a port of entry for aliens. The alien must present any required documents and establish admissibility to the satisfaction of an immigration officer during such primary or secondry inspection. If upon inspection the immigration officer is satisfied that the applicant is entitled to enter he has authority to grant admission to the United States. While the inspector has authority to admit an applicant for entry, he is not authorized to finally bar the alien or to waive causes for exclusion. Subsequent administrative proceedings will determine whether or not an alien is admissible or excludable and it is at this point that the alien has the right to representation. To avoid possible confusion as to when the right to representation attaches, 8 CFR 292.5(b) is amended to provide that an applicant for admission processing through primary or secondary inspection does not have the right to representation unless the applicant has become the focus of a criminal investigation or has been taken into custody.

Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rule making is not required because the amendment is interpretative of an existing rule and clarifies any possible ambiguity.

Accordingly, the following amendment is made to Chapter I of Title 8 of the Code of Federal Regulations:

PART 292—REPRESENTATION AND APPEARANCES

In § 292.5, paragraph (b) is revised to read as follows:

§ 292.5 Service upon and action by attorney or representative of record.

* * * * *

(b) *Right to representation.* Whenever an examination is provided for in this chapter, the person involved shall have the right to be represented by an attorney or representative who, except as otherwise specifically provided in Part 332 of this chapter, shall be permitted to examine or cross-examine such person and witnessess, to introduce evidence, to make objections which shall be stated succinctly and entered on the record, and to submit briefs. Provided, tht nothing is this subsection shall be construed to provide any applicant for admission in either primary or secondary inspection the right to representation, unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody.

(Secs. 103 and 292; 8 U.S.C. 1103 and 1362)

Dated: December 8, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-38549 Filed 12-11-80; 8:45 am]
BILLING CODE 4410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Statement of Policy—National Environmental Policy Act

AGENCY: Farm Credit Administration.

ACTION: Final statement of policy.

SUMMARY: The Farm Credit Administration has adopted a Statement of Policy, as proposed, for the implementation of the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4321, et seq.). NEPA requires Federal agencies to include environmental concerns in their decisionmaking. Under Executive Order 11991, May 24, 1977 (42 FR 26967), the Council on Environmental Quality (CEQ) was directed to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA. The Executive Order also required Federal agencies to comply with CEQ's regulations "except where * * * inconsistent with statutory requirements." On November 29, 1978, CEQ published (43 FR 55978) final regulations for implementing the procedural provisions of NEPA. CEQ's regulations (40 CFR Parts 1500–1508) require that "* * * each agency shall as necessary adopt procedures to supplement these regulations" (40 CFR 1507.3(a)). In response to the afore-described requirements, the Farm Credit Administration published a Proposed Statement of Policy in the Federal Register on August 19, 1980 (45 FR 55213) requesting public comment thereon not later than October 20, 1980.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza SW., Washington, DC 20578, (202-755-2181).

SUPPLEMENTARY INFORMATION: The Farm Credit Administration received two comments in response to the Proposed Statement of Policy which the agency has considered as part of its final action.

One commentator expressed the opinion that the use of synthetics in farming and the emphasis on short term payback of investments have had adverse consequences relating to the deterioration of the natural resource base. Further opining that the cumulative effect of the lending activities of FCA is to shape to an environmentally significant degree the methods of farming used in the United States, the commentator urges that the proposed policy statement be withdrawn.

In rejecting the suggestion, the FCA notes that its activities do not, either individually or cumulatively, have a significant effect on the human invironment. FCA does not extend any financing directly. Rather, the Farm Credit System institutions extend credit to eligible farmers, ranchers, harvesters of aquatic products and their cooperatives in carrying out the specific purposes of the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*). Such institutions are not Federal executive agencies within the meaning of the National Environmental Policy Act of 1969 (NEPA). The policy statement which has been adopted is designed to permit FCA to determine whether NEPA requires additional consideration of environmental assessment or an environmental impact statement in specific decisionmaking situations.

The other commentor agreed that FCA need not issue procedures for the issuance of environmental impact statements or other NEPA procedures, but urged adoption of a more detailed policy statement identifying circumstances which would require such statements, the activities and practices to be discouraged, and critical geographic areas to be avoided.

FCA believes that the approach set forth in the Statement of Policy presents the most appropriate method for handling matters which may have NEPA impact. NEPA defines generally the circumstances where such statements are required and using such statutory guidelines will afford FCA maximum flexibility in applying the statute to a potential situations which may arise. In addition, where a NEPA review is undertaken, the FCA should approach the action then at hand in a flexible fashion so as to consider all facts and circumstances in their proper context. The Statement of Policy adopted responds to statutory and regulatory

requirements that each Federal executive agency adopt procedural approaches to matters which may have significance under NEPA. The suggestions of the commentator for a more expansive policy statement reach beyond procedural matters to substantive issues which would be addressed in a review by the agency under NEPA. Such issues are more properly considered by the agency in context through application of the Statement of Policy as adopted.

Statement of Policy

The Farm Credit Administration (FCA) is required, pursuant to 40 CFR 1507.3(a), to adopt, as necessary, procedures to supplement regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500–1508). Those regulations were adopted by CEQ to implement the procedural provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.).

The FCA has responsibility for supervising, regulating and examining the lending institutions of the cooperative Farm Credit System under the provisions of the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* In carrying out those responsibilities, the Agency attempts to assure that the stated statutory objective is achieved. That objective is: "to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System * * *" 12 U.S.C. 2001(b).

Because the activities of the FCA ordinarily do not, either individually or cumulatively, have a significant effect on the human environment, it is not necessary for FCA to set forth separate procedures to provide early involvement in action requiring FCA approval (40 CFR 1501.2(d)); nor to adopt procedures for introducing supplemental environmental impact statements into formal administrative records (40 CFR 1502.9(c)(3)); nor to provide procedures where interested persons can get information or status reports on environmental impact statements (40 CFR 1506.6(e)). In accordance with 40 CFR 1507.3(b)(2) and 1508.4, FCA believes that none of its actions will normally require the preparation of environmental assessments or environmental impact statements.

However, where it appears that, due to extraordinary circumstances, a particular action may have a significant effect on the human environment, FCA will determine whether NEPA requires additional consideration of the environmental impact of a particular action. An official will be designated at the FCA Headquarters to review such considerations prior to FCA action. Where a particular action requires environmental analysis, the relevant environmental documents will be prepared and placed in the administrative record. The documents shall accompany the proposal through the existing agency review process so that agency officials will use those documents in making their decision, and the decisionmaker will consider the alternatives presented in those environmental documents. In addition, interested members of the public may raise objections to proposed actions by FCA based upon environmental considerations.

Interested persons may submit comments and views on the effect of FCA's actions on the human environment, and may seek information concerning FCA's compliance with the National Environmental Policy Act, by writing to Frederick R. Medero, General Counsel of the Farm Credit Administration at the address stated above.

Donald E. Wilkinson,
Governor.

[FR Doc. 80-38646 Filed 12-11-80; 8:45 am]
BILLING CODE 6705-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 113

[Revision 1, Amdt. 1]

Nondiscrimination in Financial Assistance Programs of SBA; Effectuation of Policies of Federal Government and SBA Administrator

AGENCY: SBA Revision of Minimum Accessibility Standards for Handicapped Persons.

ACTION: Final rule.

SUMMARY: The "American National Standard Specifications for Making Building and Facilities Accessible to and Usable by the Physically Handicapped" was revised in 1980. Since this document was incorporated by reference in § 113.3–3(c) of our Regulations, it is necessary to amend this part to reflect this revision.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Doris Dockett, (202) 653–6054.

For the reason set out in the preamble, Part 113 of Title 13 of the Code of Federal Regulations is being amended as follows: § 113.3–3(c) is being revised to read:

§ 113.3-3 Structural accommodations for handicapped clients.

* * * * *

(c) All new facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons in accordance with the "American National Standard Specifications for Making Building and Facilities Accessible to and Usable by the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A–117.1—1980) which is incorporated by reference, or as required in the local building code. (The ANSI Standard is for sale from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. When ordering, request ANSI A–117.1—1980. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register.) Departures from particular requirements of these standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided. The ANSI Standard cited above is the minimum acceptable standard for accessibility purposes.

Dated: November 25, 1980.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 80-38647 Filed 12-11-80; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 76N-1075]

Stabilizers and Emulsifiers in Lowfat Milk and Skim Milk

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is terminating the rulemaking procedure on provisions that would have: (1) allowed the use of stabilizers, with or without emulsifiers, to increase the viscosity of lowfat milk and skim milk; (2) provided for use of

the phrase "nonfat milk solids," "nonfat milk-derived solids," or "with added thickeners" as part of the name of the food when viscosity-increasing ingredients are used; and (3) established definitions for "nonfat milk solids" and "nonfat milk-derived solids." Further, this document: (1) requires the use of the phrase "with added milk solids not fat" when the food has been made to contain not less than 10 percent milk solids not fat and (2) discontinues the use of the terms "protein fortified" or "fortified with protein." The purpose of this action is to promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date; voluntary compliance by February 10, 1981; objections by January 12, 1981.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 10, 1973 (38 FR 27924), the Food and Drug Administration (FDA) published a final rule establishing standards of identity for milk and cream products that provided for the use of stabilizers and emulsifiers only in conjunction with the addition of milk-derived ingredients. These final regulations were published under 21 CFR Part 18, which was subsequently recodified into 21 CFR Part 131 as part of a general agency reorganization and republication (42 FR 14302). Eight objections were received regarding this limited use of stabilizers and emulsifiers. The objectors contended that stabilizers and emulsifiers are more economical than milk-derived ingredients and that they produce a product comparable in nutritive value to lowfat milk or skim milk, but with increased palatability. The objectors also stated that proper labeling would adequately inform the consumer of the use of stabilizers and emulsifiers. FDA determined that substantial issues of fact had been raised and therefore, in a notice published in the Federal Register of December 5, 1974 (39 FR 42351), stayed those portions of paragraph (c)(3) of §§ 18.10 and 18.20, subsequently recodified as §§ 131.135 and 131.145, that limit the use of stabilizers and emulsifiers.

As a result of the objections to the October 10, 1973 final regulation, FDA issued a proposal in the Federal Register of October 26, 1976 (41 FR 46873), to amend the standards of identity for lowfat milk (21 CFR 131.145) and skim milk (21 CFR 131.145) and to establish definitions for the terms "nonfat milk solids" and "nonfat milk-derived solids." It also proposed amending §§ 131.135(e)(1) and 131.145(e)(1) by deleting the phrase "protein fortified" or "fortified with protein" which were to be declared as part of the name of the food if the food contains not less than 10 percent milk-derived nonfat solids. FDA also requested specific comment on (1) whether the use of stabilizers, with or without emulsifiers in a specified amount, without added nonfat milk solids or other nonfat milk-derived solids, should be allowed and (2) whether the proposed labeling would adequately inform the consumer about ingredient differences in products with similar physical characteristics.

One hundred and eighty-eight letters, each containing one or more comments, were received from consumers, industry trade associations, State governments, and members of Congress. One letter approved of the proposal as published. One hundred and sixty-five letters, for various reasons, were opposed to the proposed use of stabilizers and emulsifiers, and 22 letters stated that the proposed labeling would be inadequate. The issues raised by the comments and FDA's responses are as follows:

1. A number of comments stated that the use of stabilizers, with or without emulsifiers, to increase the viscosity of lowfat milk and skim milk constitutes adulteration of these foods because it imparts the same physical and organoleptic characteristics, at a lower cost, as added milk-derived ingredients, but without the benefit of increased nutritional value. Thus, the comments believe consumers may be deceived about the actual quality of these foods. Many consumers and milk producers opposed the addition of any nondairy ingredient to lowfat milk and skim milk because these foods are regarded as "pure" or "basic" foods which should remain so. They also feared that additives would soon be added to whole milk and other milk products. These comments also questioned whether the stabilizers and emulsifiers to be used had been thoroughly tested for safety. Some of the comments stated that the use of stabilizers and emulsifiers would lower the nutritional value of lowfat milk and skim milk. Many of the milk producers stated that the proposal, if finalized, would be economically detrimental to the dairy industry in that milk producers would lose a major market for milk-derived ingredients.

Some of the comments thought that the proposed labeling requirements concerning the use of viscosity-increasing ingredients provided adequate information, but most did not. The phrase "with added thickeners" was believed to inadequately differentiate between lowfat milk or skim milk thickened with stabilizers and emulsifiers and those thickened through fortification with added milk-derived ingredients. Others stated that the phrase does not provide enough information about what is being used to thicken the lowfat or skim milk.

Consumers and milk producers asserted that there is neither a need nor a demand for thickened lowfat milk and skim milk, and adopting this proposal may result in lowfat milk and skim milk fortified with added milk-derived ingredients disappearing from the marketplace and being available only from speciality stores such as "health food stores." A manufacturer of stabilizers and emulsifiers rebutted this by saying that there is a consumer demand for lowfat milk and skim milk thickened with stabilizers and emulsifiers based on the consumer's rejection of the lighter bodied milk and their desire for milk with lower caloric and cholesterol contents. Further, the comment stated that the use of stabilizers and emulsifiers to improve palatability optimizes acceptance and consumption of lowfat milk and skim milk without increasing their caloric value. A preliminary study (survey) was submitted to support the need for thickened lowfat and skim milk in the marketplace.

FDA concludes that the arguments presented in these comments have substantially supported the position that the proposed provisions for the use of stabilizers and emulsifiers as viscosity-increasing ingredients in lowfat milk and skim milk, and the use of the phrase "with added thickeners" will not promote honesty and fair dealing in the interest of consumers. Although competitive economic reasons, alone, cannot be considered as a basis for disallowing the use of stabilizers and emulsifiers, the agency agrees that the use of these ingredients may be deceptive, within the meaning of section 402(b)(4) (21 U.S.C. 342(b)(4)) of the Federal Food, Drug, and Cosmetic Act, to consumers accustomed to consuming skim milk or lowfat milk containing added milk solids not fat (msnf) to increase the viscosity. At the same time, while the agency acknowledges the

consumer's fear of the expanding use of additives, it points out that any ingredient, including stabilizers and emulsifiers, used in these foods must be safe and suitable as defined in 21 CFR 130.3(d). The agency is not convinced that further restrictions other than those that already exist are necessary to govern the prudent use of food additives in these foods.

The agency also agrees with the comments that the nutritional values of those foods thickened with stabilizers and emulsifiers would be lower than those thickened with milk-derived ingredients. The United States Department of Agriculture's Handbook 8-1 lists the protein content of skim milk as 8.35 grams per cup. This is increased to 9.74 grams per cup when sufficient milk-derived ingredients are added to increase the msnf content to 10 percent. This is a difference of 1.39 grams which is equivalent to 3 percent of the U.S. RDA for an adult. Nutritional differences between lowfat milk and skim milk thickened with stabilizers and emulsifiers (ingredients that do not significantly add to the nutritional value of these foods) and those thickened with added milk-derived ingredients could be sufficiently important, particularly in the case of children, to reconsider the proposal to allow the use of stabilizers and emulsifiers alone to thicken lowfat and skim milk. The following table shows increases in certain vitamins and minerals, as well as protein, when the msnf content of lowfat and skim milk is increased from 8.25 percent to at least 10 percent. The increases are presented as percent of the U.S. RDA for each of them. Values are given for both adults and for children under 4 years of age.

Product and nutrient	Nutrient content of product containing		Nutrient increase	Increase expressed as percent USRDA for adult	Increase expressed as percent USRDA for child under 4 yr
	8.25 pct msnf[1] minimum[2]	10 pct msnf[1] minimum[2]			
Skim milk (1 cup):					
Protein, g	8.35	9.74	1.39	3.1	7.0
Vitamin C, mg	2.40	2.76	.36	.6	.9
Thiamin, mg	.088	.111	.023	1.5	3.3
Riboflavin, mg	.343	.477	.134	7.9	16.8
Niacin, mg	.216	.248	.032	.2	.4
Pantothenic acid, mg	.806	.925	.119	1.2	2.4
Vitamin B_6, mg	.098	.123	.025	1.2	3.6
Folacin, mcg	13	15	2	.5	1.0
Vitamin B_{12}, mcg	.926	1.050	.124	2.1	4.1
Calcium, mg	302	352	50	5.0	6.2
Iron, mg	.10	.15	.05	.3	.5
Magnesium, mg	28	40	12	3.0	6.0
Zinc, mg	.98	1.11	.13	.9	1.6
Lowfat milk (1 cup):					
Protein, g	8.12	9.72	1.60	3.6	8.0
Vitamin C, mg	2.32	2.76	.44	.7	1.1
Thiamin, mg	.095	.111	.016	1.1	2.3
Riboflavin, mg	.403	.477	.074	4.4	9.2
Niacin, mg	.210	.248	.038	.2	.4
Pantothenic acid, mg	.781	.925	.144	1.4	2.9
Vitamin B_6, mg	.105	.125	.020	1.0	2.9
Folacin, mcg	12	15	3	.8	1.5
Vitamin B_{12}, mcg	.888	1.053	.165	2.8	5.5
Calcium, mg	297	352	55	5.5	6.9
Iron, mg	.12	.15	.03	.2	.3
Magnesium, mg	33	40	7	1.8	3.5
Zinc, mg	.95	1.11	.16	1.1	2.0

[1] Milk solids not fat.
[2] Values taken from U.S.D.A. Agriculture Handbook No. 8-1.

Therefore, based on all of the comments received concerning the use of stabilizers and emulsifiers and the use of the phrase "with added thickeners" as part of the name of the food, FDA is terminating the rulemaking name of the food, FDA is terminating the rulemaking proceedings for those provisions of the proposal that would have provided for the use of stabilizers, with or without emulsifiers, as viscosity-increasing ingredients and the related labeling requirements.

2. Several comments opposed deleting the phrases "protein fortified" and "fortified with protein" from the standards for lowfat and skim milk. One was in favor of the deletion. The opposing comments maintain that consumers recognize a "protein fortified" lowfat milk or skim milk as a product with improved nutritional quality and palatability. FDA's justification for this proposed action, "to eliminate inconsistency between use of the term 'fortified' in the milk standards and the proposed definition of 'fortified' in 21 CFR 100.1," was considered inadequate.

FDA disagrees with these comments and concludes that it would be misleading to consumers to continue to permit the terms "protein fortified" and "fortified with protein" as part of the names of lowfat milk and skim milk because the terms imply that the milks contain a greater quantity of added protein than they actually do. The agency advises that its proposed definition of "fortified" published in the June 14, 1974 Federal Register (39 FR 20900) has been replaced by a new concept of "fortified" set forth in a general food fortification policy statement in 21 CFR Part 104, which is to be used in conjunction with nutrition labeling regulations in 21 CFR 101.9. The food fortification policy statement was published in the January 25, 1980 Federal Register (45 FR 6314). Thus, "fortified" may still be used on the label, but only in accordance with 21 CFR 101.9(c)(7)(v) of the nutrition labeling regulation. Under this regulation a claim of nutritional superiority, such as "protein fortified" or "fortified with protein", may be made only when the food contains 10 percent more of the U.S. RDA for the claimed nutrient, per serving, than the food to which it is purportedly superior. As an example, milk-derived ingredients added to 2 percent lowfat milk or to skim milk to increase the msnf level to 10 percent result in the protein content of lowfat milk being increased to 19.7 percent and the protein content of skim milk being increased to 16.6 percent. These levels of protein equate to only 3.6 percent and 3.1 percent, respectively, of the U.S. RDA for protein. The agency recognizes that sufficient milk-derived ingredients to provide a protein content equal to 10 percent of the U.S. RDA would probably make lowfat milk and skim milk taste so chalky that they would be unacceptable to consumers.

3. Several comments pertained to the declaration of "nonfat milk solids" and "nonfat milk-derived solids." Four comments approved of the definitions as proposed. One of the comments approving the definition pointed out that while each definition is technologically clear, they are so similar as to be confusing to an average consumer when used as part of the name of the food, e.g., "lowfat milk with added nonfat milk-derived solids." Other comments disapproved of the definitions on the grounds that several milk-derived

ingredients regarded as low quality and in conflict with the requirements of the "Grade A Pasteurized Milk Ordinance" (PMO) would be permitted for use. Several of these comments offered alternative definitions.

FDA agrees that the proposed phrases "nonfat milk solids" and "nonfat milk-derived solids" may not be sufficiently clear to inform consumers of differences in the types of dairy ingredients that might be used. Thus, the usefulness of distinguishing between the types of dairy ingredients through definitions is lost. The alternative definitions offered by the comments were inadequate because they excluded groups of milk-derived ingredients that may reasonably be allowed for use in these foods, such as co-precipitates of lactalbumins. Therefore, FDA is terminating action on the proposed definitions and the provisions for use of the phrases "nonfat milk solids" and "nonfat milk-derived solids" as part of the names of lowfat milk and skim milk. However, in view of the fact that any reference to protein fortification will not be allowed in conjunction with the names of lowfat milk or skim milk to which milk-derived ingredients have been added, the FDA believes that a need exists to inform consumers when these ingredients are added. FDA believes the phrase "with added milk solids not fat" will convey this information to consumers and is therefore requiring the use of this phrase in conjunction with the names of lowfat milk and skim milk when milk-derived ingredients are added to increase the msnf content of the foods to not less than 10 percent.

FDA advises that the existing stay of paragraph (c)(3) of §§ 131.135 and 131.145 which limited use of stabilizers, with or without emulsifiers, such that they could not be used alone to increase the viscosity of lowfat milk and skim milk remains in effect. Thus, stabilizers, with or without emulsifiers, will continue to be permitted to increase the viscosity of lowfat milk and skim milk pending the outcome of a hearing. A hearing notice indicating the date, time, and location of the hearing will be published in the Federal Register.

PART 131—MILK AND CREAM

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 131 is amended as follows:

1. In § 131.135 by revising paragraph (e)(1)(iv) to read as follows:

§ 131.135 Lowfat milk.

* * * * *

(e) * * *

(1) * * *

(iv) The phrase "with added milk solids not fat" if the food contains not less than 10 percent milk-derived nonfat solids.

* * * * *

2. In § 131.145 by revising paragraph (e)(1)(iii) to read as follows:

§ 131.145 Skim milk.

* * * * *

(e) * * *

(1) * * *

(iii) The phrase "with added milk solids not fat" if the food contains not less than 10 percent milk-derived nonfat solids.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 12, 1981, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin February 10, 1981, and all products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983 shall fully comply. Notice of the filing of objections or lack thereof will be published in the Federal Register.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 342, 371(e)))

Dated: December 4, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38231 Filed 12-11-80; 8:45 am]
BILLING CODE 4110-03-M

---

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect a change of sponsor address for several new animal drug applications (NADA's) held by American Cyanamid Co. The firm has amended their NADA's to provide for this change.

EFFECTIVE DATE: December 12, 1980.

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

SUPPLEMENTARY INFORMATION: American Cyanamid Co. has amended their NADA's to provide for a change in address of the agricultural division administrative offices from Princeton, NJ, to Berdan Ave., Wayne, NJ 107470. The research division will continue to be located in Princeton, NJ. The list of sponsor names and addresses in 21 CFR 510.600(c) is amended to reflect the change of sponsor address.

This action, the change of sponsor address for several NADA's, does not involve changes in manufacturing facilities, equipment, procedures or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this action did 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))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) for "American Cyanamid Co." and

in paragraph (c)(2) for "010042" by deleting the current firm name and address and inserting in its place "American Cyanamid Co., Berdan Ave., Wayne, NJ 07470."

Effective Date. This regulation is effective December 12, 1980.

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

Dated: November 26, 1980.

Robert A. Baldwin,

Associate Director, Scientific Evaluation.

[FR Doc. 80-38234 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Monensin Feed Blocks; Oral Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. E. Staley Mfg. Co. providing for safe and effective use of a medicated feed block containing monensin for increased rate of weight gain in pasture cattle.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: A. E. Staley Mfg. Co., 2200 E. Eldorado St., Decatur, IL 62525, filed an NADA (109-471) providing for use of a 40-pound molasses-mineral feed block containing 0.088 percent monensin for increased rate of weight gain in slaughter, stocker, and feeder cattle on pasture. Approval of this NADA partly relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 95-735 and 38-878. NADA 95-735 provides for use of monensin premixes for making finished cattle feeds. The feeds are also used for increased rate of weight gain. Use of the data in NADA's 95-735 and 38-878 to support this NADA has been authorized by Elanco. Because this approval provides for use of the block as an alternative form for administering monensin, the Bureau of Veterinary Medicine concludes that it poses no increased human risk from exposure to residues of the drug nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this original NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of safety and effectiveness data in NADA 95-735 nor safety data in NADA 38-878.

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

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

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 Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1448 to read as follows:

§ 520.1448 Monensin feed blocks.

(a) *Specifications.* Each pound of molasses-mineral feed block contains 400 milligrams of monensin (0.088 percent) as monensin sodium.

(b) *Sponsor.* See 012315 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.420 of this chapter.

(d) *Conditions of use*—(1) *Amount.* 80 to 200 milligrams of monensin (0.2 to 0.5 pound of block) per head per day.

(2) *Indications for use.* Increased rate of weight gain.

(3) *Limitations.* Feed block to be given free choice to pasture cattle (slaughter, stocker, and feeder) weighing more than 400 pounds. Provide at least 1 block per 5 head of cattle. Feed blocks continuously. Do not feed salt or minerals containing salt. Do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal). The effectiveness of this block in cull cows and bulls has not been established.

Effective date. This regulation is effective December 12, 1980.

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

Dated: December 2, 1980.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 80-38233 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 540

Sterile Ampicillin Trihydrate Suspension; Penicillin Antibiotic Drugs for Animal Use

AGENCY: Food and Drug Administration.

ACTION: Final rule

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA), filed by E. R. Squibb & Sons, Inc., providing for safe and effective intramuscular use of sterile ampicillin trihydrate suspension for treating calves for bacterial pneumonia.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, filed a supplemental NADA (55-064) providing for intramuscular use of ampicillin trihydrate in calves for treating bacterial pneumonia, in addition to its approved use in this species for treating bacterial enteritis. The regulations are amended to add provisions for this additional claim.

This approval poses no increased human risk from exposure to ampicillin residues because the agency has determined that the number of food-producing animals receiving medication will not significantly increase, and because the product will continue to be administered at the dosage level and according to the treatment schedule currently approved for calf enteritis. This treatment schedule is 3 milligrams (mg) per pound (lb) of body weight, twice daily, for up to 3 days. Accordingly, under the Bureau of Veterinary Medicine's supplemental NADA approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), this approval did not require reevaluation of the safety data supporting the parent application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of

safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commission of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.207a by revising paragraph (c)(1)(iii)(*a*)(*1*) and (*2*) to read as follows:

§ 540.207a Sterile ampicillin trihydrate suspension.

* * * * *

(c) *Conditions of marketing*—(1) * * *

(iii) *Conditions of Use*—(*a*) *In calves.*

(*1*) Administer intramuscularly for treatment of bacterial enteritis (colibacillosis) caused by *E. coli* and bacterial pneumonia caused by *Pasteurella spp.* susceptible to ampicillin.

(*2*) For treatment of enteritis: 3 milligrams per pound of body weight, once or twice daily, for up to 3 days; treatment of pneumonia: 3 milligrams per pound of body weight, twice daily, for up to 3 days.

* * * * *

Effective date. This regulation is effective December 12, 1980.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b(i) and (n)))

Dated: December 1, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-38232 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 1005

[Docket No. 80N-0459]

Importation of Electronic Products; Applicability

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations dealing with importation of electronic products to make clear that the regulations apply to all products subject to standards established for electronic products. This amendment brings the wording of the regulations applying to electronic products for importation into the United States into conformance with FDA's long-standing interpretation and policy.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Melvyn R. Altman, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4326.

SUPPLEMENTARY INFORMATION: Currently, § 1005.1(a) (21 CFR 1005.1(a)) provides that the regulations governing importation of electronic products only apply to electronic products subject to performance standards in 21 CFR Parts 1010, 1020, and 1030. Section 1005.1(a) was published when the only performance standards issued under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263b et seq.)) were in Parts 1010, 1020, and 1030. Since that time, however, standards have been published in 21 CFR Part 1040 (light-emitting products) and in 21 CFR Part 1050 (sonic, infrasonic, and ultrasonic radiation-emitting products).

Section 1005.1(a) was intended to specify that Part 1005 applies to all products subject to performance standards issued under the Radiation Control and Health and Safety Act of 1968 and has always been so interpreted. This amendment will, therefore, conform the wording of § 1005.1(a) with the original intent and the current interpretation of the applicability of the regulations to electronic products offered for importation into the United States.

Because this technical interpretive amendment neither imposes nor relieves any requirements, the Commissioner of Food and Drugs finds for good cause that notice and public procedures are impracticable and unnecessary. For the same reasons, the Commissioner finds good cause for not delaying the effective date of this amendment.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 356, 360, 82 Stat. 1174-1176, 1181-1182 (42 U.S.C. 263d, 263h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), 21 CFR Part 1005 is amended in § 1005.1 by revising paragraph (a) to read as follows:

§ 1005.1 Applicability.

(a) The provisions of §§ 1005.1 through 1005.24 are applicable to electronic products which are subject to the standards prescribed under this subchapter and are offered for importation into the United States.

* * * * *

Effective date. This amendment becomes effective December 12, 1980.

(Secs. 356, 360, 82 Stat. 1174-1176, 1181-1182 (42 U.S.C. 263d, 263h))

Dated: December 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38372 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[SD-162]

Issuance of Nonimmigrant Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Section 41.124 is amended to allow for the issuance of visas having a fascimile signature of the issuing officer and to allow for the use of the automated nonimmigrant visa issuing system in the issuance of visas not signed by a consular officer. Other technical and clarifying amendments are also included in this order.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs. (202) 632-1900.

SUPPLEMENTARY INFORMATION: As a result of successful testing of an automated nonimmigrant visa issuing system, also known as ANVIS, which was started on a trial basis in 1978, the Department has decided to continue the use of the visa issuing system. The purpose of these amendments, therefore, is to incorporate technical and procedural changes necessary to carry out the issuance of the modernized ANVIS visas and to provide for the use of authorized facsimile signature sliders in lieu of the actual signature of designated consular officers.

Compliance with 5 U.S.C. 553 relative to notice of proposed rulemaking and delayed effective date is impractical and

unnecessary because the amendments involved in this order are technical and administrative in nature.

1. In § 41.124, paragraphs (a) and (b) are revised; a new paragraph (c) is added and paragraphs (c) through (f) are redesignated as paragraphs (d) through (g); paragraphs (d) and (e)(2) are revised; and paragraphs (e)(1), (e)(3), and (f) are amended to read as follows:

§ 41.124 Procedures in issuing visas.

(a) *Visa evidenced by a properly identifiable insert in the passport.* Except as provided in paragraph (b) of this section the issuance of a nonimmigrant visa shall be evidenced by a properly identifiable insert placed in the alien's passport. The appropriate symbol, as prescribed in § 41.12, showing the classification of the alien, shall be included in the visa insert.

(b) *Cases in which visa may not be placed in passport.* In the following cases the visa shall be placed on the prescribed Form OF-232, to which a photograph of the alien shall be attached under seal:

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa insert in such passport;

(2) The alien's passport does not provide sufficient space for the visa insert;

(3) The passport requirement has been waived; or

(4) In other cases as authorized by the Department. In issuing a visa in such cases a notation shall be made on the Form OF-232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(c) *Indefinite Validity Visa.* In no instance may a visa issued pursuant to section 101(a)(15)(B) of the Act and having indefinite validity as provided in § 41.122(c) be placed in any document other than a valid passport.

(d) *Visa Insert.* (1) The nonimmigrant visa insert shall be in the format designated by the Department and contain the following data:

(i) The number of the visa;

(ii) The location of the issuing office;

(iii) The classification of the visa;

(iv) The date of issuance;

(v) The expiration date or, if an indefinite validity visa is issued on the basis of reciprocity, the word "indefinitely";

(vi) The number of applications for admission for which it is valid or, the word "multiple";

(vii) The name(s) of the person(s) to whom issued, unless the entry authorized by paragraph (e)(1) of this section is used;

(viii) The signature or facsimile signature of the issuing officer.

(2) The format of a diplomatic visa shall be the same as a regular nonimmigrant visa, except that it shall bear the title "DIPLOMATIC".

(3) the format of an official visa shall be the same as a regular nonimmigrant visa, except that it shall bear the title "OFFICIAL".

(4) All of the data required by paragraph (d)(1) shall be contained in a nonimmigrant visa issued pursuant to the Automated Nonimmigrant Visa Issuance System (ANVIS) except that the signature or facsimile signature of the issuing officer shall not be contained in such a visa. In addition, the ANVIS visa shall contain the date and place of birth of the person the whom the visa is issued with the country of birth being indicated by a three digit numeric code. The location of the issuing office will also be shown by a three digit numeric code.

(e) *Insertion of name; petition and derivative status notation.*

(1) Except as otherwise provided in this paragraph, the name or names of the alien or aliens to whom a nonimmigrant visa is issued shall be shown on the visa insert after the word "to". Foreign Service posts may individually be authorized by the Department, after consultation with the Immigration and Naturalization Service, to show, * * *

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized and the name of the petitioner shall be noted immediately below the visa insert.

(3) * * * of the visa insert.

(f) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the word "multiple" shall be appropriately placed in the visa insert. Otherwise the number of permitted applications for admission shall be shown in word form. The date of issuance and the date of expiration of the visa shall be shown in the appropriate places in the visa insert and shall indicate the day, month and year in that order. * * *

* * * * *

2. In § 41.124, former paragraph (g) is deleted and reserved and paragraphs (h), (i) and (j) are revised to read:

§ 41.124 Procedures in issuing visas.

* * * * *

(h) *Signature.* Except in the case of a nonimmigrant visa issued pursuant to § 41.124(d)(4), the signature or facsimile signature of the consular officer issuing the visa shall appear in the visa insert.

(i) *Delivery of visa and disposition of Form OF-156.* In issuing a nonimmigrant visa the consular officer shall deliver the visaed passport, or the prescribed Form OF-232 which bears the visa, to the alien or, in any cases in which personal appearance has been waived, to the authorized representative.

(j) *Disposition of supporting documents.* Original supporting documents furnished by the alien shall be returned to the alien for presentation, if necessary, to immigration authorities at the port of entry and a notation to that effect shall be made on the Form OF-156. Duplicates of the documents may be retained at the consular office in the discretion of the consular officer.

3. In § 41.124(k) the words "stamp" and "inserted" are substituted by the words "insert" and "placed" respectively in each of the places in which they appear, and the last sentence is deleted.

(Section 104, 66 Stat. 174; 8 U.S.C. 1104; Section 109(9)(1), 91 Stat. 847)

Dated: December 1, 1980.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-38645 Filed 12-11-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 42

[Docket No. R-80-686]

Uniform Relocation Assistance and Real Property Acquisition

AGENCY: Department of Housing and Urban Development (HUD), Office of Community Planning and Development.

ACTION: Final rule.

SUMMARY: HUD is issuing a final rule containing the Department's policies governing the relocation of mobile home occupants displaced by a HUD-assisted project that is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

DATE: The effective date of this rule is March 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. Huecker, Director, Relocation and Real Estate Division, HUD/Community Planning and

Development, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6336.

SUPPLEMENTARY INFORMATION: On August 13, 1979, HUD published an interim rule (44 FR 47508; effective September 26, 1979) that contains the Department's policies governing the relocation of mobile home occupants displaced by a HUD-assisted project that is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

Two (2) comments were received in response to the interim rule. These two comments and the Department's response are described in items 1 and 2 below. Items 3 and 4 explain rule clarifications that have been added to the regulations.

1. *Persons Retaining, Moving and Reoccupying Mobile Homes.* Under the interim rule, a displaced owner-occupant of a mobile home who retains and moves the mobile home and reoccupies it on a replacement site is not eligible for a replacement housing payment to help the person rent or buy the replacement site. One commenter objected to this exclusion as being inconsistent with the intent of the Uniform Act.

The Department agrees with the commenter. Therefore, the final rule includes provisions to insure that a person who retains and moves his or her mobile home and reoccupies it on a replacement site (and meets other basic eligibility criteria) will be entitled to a replacement housing payment based on the cost of obtaining a replacement site.

2. *Reducing 90-Day Occupancy Test.* One commenter suggested that the 90-day occupancy test that a tenant of a mobile home must meet in order to be eligible for a replacement housing payment should be reduced to 30 days. However, the 90-day requirement is statutory and therefore the suggestion cannot be adopted. It should be noted that the rule at § 42.209 precludes a State agency from ordering any person, whether or not the person meets the 90-day test, to move from the property unless a reasonable choice of opportunities are available to the person to enable him or her to relocate to a comparable (affordable) replacement dwelling.

3. *Displaced 180-day Mobile Home Owner Who Does Not Own Displacement Site and Must Purchase Replacement Site.* Section 42.505(b) explains relocation policies which apply when the displaced 180-day owner of a mobile home, who does not own the displacement site, buys a replacement mobile home. A clarification to this rule has been added to explain that if there is no reasonable opportunity available for the displaced person to rent a suitable replacement site, the differential component of the replacement housing payment shall be based on a comparison of (1) the State agency's acquisition cost of the displacement mobile home, exclusive of the cost of the displacement site, and (2) the purchase price of both the replacement mobile home and the replacement site (not to exceed the cost of a comparable replacement mobile home and site).

4. The eligibility criteria at § 42.505(a)(3) and § 42.507(a)(3) have been revised to reflect the Department's determination that the diplaced occupant of a mobile home that is real property, which is condemned under police power for a HUD-assisted project, is eligible for relocation assistance under the Uniform Act. As clarified, the rule will state that the displaced occupant of any mobile home that is not acquired but, which (1) cannot be moved without substantial damage or unreasonable cost, or (2) is not decent, safe and sanitary, is eligible for relocation assistance. A statement has also been added to these paragraphs explaining that the State agency's notice to vacate the property shall be considered to be the "initiation of negotiations." The date of the "initiation of negotiations" is needed in order to determine eligibility for a replacement housing payment.

Other Information: A Finding of Inapplicability with regard to the Environmental Impact of these rules has been prepared in accordance with HUD procedures. A copy of the Finding is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. This rule revision is not listed on the Department's Semiannual Agenda of Significant Regulations.

For the reasons described above, 24 CFR Part 42 is amended to include a revised Subpart H as set forth below.

Subpart H—Mobile Homes

Sec.
42.501 Purpose.
42.503 Moving and related expenses.
42.505 Replacement housing payments for 180-day owner-occupants.
42.507 Repacement housing payments for tenants and certain others.

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart H—Mobile Homes

§ 42.501 Purpose.

This subpart sets forth basic policies governing the application of Subparts D, E, F and G to displaced persons who own and/or occupy mobile homes.

§ 42.503 Moving and related expenses.

(a) *General.* A displaced person is entitled to payment for the cost of moving his/her personal property, including his/her mobile home if it is personal property, on an actual cost basis in accordance with Subpart D or, as an alternative, on the basis of a fixed payment under Subpart E as described in the applicable Federal Highway Administration schedule (49 CFR 25.153, Appendix A). However, if the mobile home is not acquired but the owner obtains a replacement housing payment because the mobile home is not decent, safe and sanitary or cannot be moved without substantial damage or unreasonable cost, the owner is not eligible for payment of moving expenses under Subpart D or E for moving the mobile home.

(b) *Mobile home park entrance fee.* A displaced mobile home occupant, who elects to obtain a moving expense payment on an actual cost basis in accordance with Subpart D, is entitled to payment for the reasonable entrance fee that he/she must pay in order to relocate to a mobile home park. However, no part of an entrance fee which is returnable to the person shall be paid.

§ 42.505 Replacement housing payments for 180-day owner-occupants.

(a) *Eligibility.* A displaced owner-occupant of a mobile home is entitled to a replacement housing payment under Subpart F if—

(1) He/She actually owned a mobile home and occupied it on the displacement site for at least 180 days prior to the initiation of negotiations. (If the person did not both own the mobile home and occupy it on the displacement site for the prescribed 180-day period, the person does not qualify for a replacement housing payment under Subpart F, regardless of how long he/she owned or rented the displacement site or how long he/she owned the mobile home.)

(2) He/She meets the other basic eligibility requirements under Subpart F; and

(3) The State agency acquires the mobile home as real property, or the mobile home is not acquired by the State agency but the person is displaced becasue the mobile home (i) is not decent, safe and sanitary or (ii) cannot

be moved without substantial damage or unreasonable cost. In the latter case, when the mobile home is not actually acquired, the State agency's notice to vacate the property shall be considered to be the "initiation of negotiations" and the State agency's "acquisition cost" used for purposes of computing the differential amount (described at § 42.405) shall include the salvage value or trade-in value of the mobile home, whichever is higher. (However, this paragraph (3) does not preclude "site only" payments as described in paragraph (d) of this section.)

(b) *Person did not own displacement site.* (1) If a displaced person, who did not own the displacement mobile home site, buys a replacement mobile home and meets the eligibility criteria in paragraph (a) of this section, the computation of the differential amount (described at § 42.405) shall be based on a comparison of (i) the State agency's "acquisition cost" of the displacement mobile home, exclusive of the cost of the displacement site, and (ii) the purchase price of a replacement mobile home, exclusive of the cost of a replacement site, unless there is no reasonable opportunity for the person to rent a suitable replacement site. (2) If the displaced person must buy a replacement site because there is no reasonable opportunity for him or her to rent a suitable replacement site, the differential amount shall be based on a comparison of (i) the State agency's "acquisition cost" of the displacement mobile home, exclusive of the cost of the displacement site, and (ii) the purchase price of both the replacement mobile home and the replacement site (not to exceed the cost of a comparable replacement mobile home and site).

(c) *Person does not buy replacement site.* If a displaced person buys a replacement mobile home and meets the eligibility criteria in paragraph (a) of this section but does not buy the replacement mobile home site, the computation of the differential amount (described at § 42.405) shall be based on a comparison of (1) the State agency's "acquisition cost" of the displaced mobile home, exclusive of the cost of the displacement site, and (2) the purchase price of the replacement mobile home (not to exceed the cost of a comparable replacement mobile home), exclusive of the cost of a replacement site.

(d) *Person retains and moves mobile home and buys replacement site.* If a displaced person retains, moves and reoccupies the mobile home on a replacement site which he or she has bought and meets the eligibility criteria in paragraphs (a)(1) and (a)(2) of this section, the computation of the differential amount (described at § 42.405) shall be based on a comparison of (1) the State agency's "acquisition cost" of the displacement site and (2) the purchase price of the replacement site (not to exceed the cost of a comparable replacement site).

(e) *Basic limitation.* A payment under Subpart F to a displaced mobile home owner-occupant shall not exceed the amount to which the person would be entitled if he or she purchased a comparable replacement mobile home and/or site, as the case may be.

§ 42.507 Replacement housing payments for tenants and certain others.

(a) *Eligibility.* A displaced occupant of a mobile home is eligible for a replacement housing payment under Subpart G if—

(1) He/She actually occupied the mobile home on the displacement site for at least 90 days prior to the initiation of negotiations. (If the person did not occupy the mobile home on the displacement site for the prescribed 90-day period, the person does not qualify for a replacement housing payment under Subpart G, regardless of how long he or she owned or rented or occupied the displacement site or how long he or she owned or rented or occupied the mobile home.)

(2) He/She meets the other basic eligibility requirements of § 42.451; and

(3) The State agency acquires the mobile home as real property, or the mobile home is not acquired by the State agency but the person is displaced because the mobile home (i) is not decent, safe and sanitary, or (ii) cannot be moved without substantial damage or unreasonable cost. In the latter case, when the mobile home is not actually acquired, the State agency's notice to vacate the property shall be considered to be the "initiation of negotiations." (However, this paragraph (3) does not preclude "site only" payments as described in paragraph (e) of this section.)

(b) *Person rents replacement home.* A displaced mobile home occupant, who meets the eligibility criteria described in paragraph (a) of this section and who rents a replacement home, is entitled to a payment determined under § 42.453 (Replacement housing payment for rental assistance), subject to the following rules—

(1) The payment shall be based on the rent for the decent, safe and sanitary replacement dwelling and site, or the rent for a comparable replacement mobile home and site, whichever is less.

(2) If the person buys the replacement site, the computation of his or her monthly housing cost for the replacement dwelling as described in § 42.453 shall include the estimated fair market rent for the replacement site or for a comparable replacement site, whichever is less.

(3) If the person owned the displacement mobile home and/or site, the computation of the monthly housing cost for the "acquired dwelling" (see § 42.453) shall include the estimated fair market rent for the displacement mobile home and/or site, as the case may be.

(c) *Person retains and moves mobile home and rents replacement site.* If a displaced person retains, moves and reoccupies the mobile home on a rented replacement site and meets the eligibility criteria in paragraphs (a)(1) and (a)(2) of this section, the person is entitled to a payment determined under § 42.453 which is based on the cost of renting the actual replacement site, or a comparable replacement site, whichever is less.

(d) *Person buys replacement home.* If a displaced mobile home occupant buys a replacement dwelling and meets the eligibility criteria described in paragraph (a) of this section, the person is entitled to a payment determined under § 42.455 (Replacement housing payment for downpayment assistance). The payment shall be based on the required downpayment for the decent, safe and sanitary replacement dwelling (and site, if applicable) actually purchased. However, if the replacement dwelling is a conventional home, the payment shall not exceed the amount payable if the person purchased a comparable replacement mobile home (and site, if applicable).

(e) *Person retains and moves mobile home and buys replacement site.* If a displaced person retains, moves and reoccupies the mobile home on a replacement site which he/she has bought and meets the eligibility criteria in paragraphs (a)(1) and (a)(2) of this section, the person is entitled to a payment determined under § 42.455 that is based on the actual cost of buying the replacement site.

Issued at Washington, D.C., December 4, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-38594 Filed 12-11-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary—Neighborhoods Voluntary Associations, and Consumer Protection

24 CFR Part 3610

[Docket No. R-80-715]

Neighborhood Self-Help Development Program; Program Requirements

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of final rule.

SUMMARY: On November 14, 1980 at 45 FR 75610 the Department of Housing and Urban Development published the final rule for the Neighborhood Self-Help Development Program. That rule contained an incorrect effective date of January 15, 1981. This publication corrects that error.

FOR FURTHER INFORMATION CONTACT: Joseph McNeely, Office of Neighborhood Self-Help Development, Room 4222, The Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. (202) 755-5595. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The following error appeared in 24 CFR Part 3610 as published in the Federal Register on September 9, 1980:

(a) The effective date of the regulation was incorrectly listed as January 15, 1981. This effective date was based on the assumption that Congress would be in session a full thirty (30) days beginning with the date of publication of the final rule in the Federal Register on November 14, 1980. In order to be effective, the final rule must be published in the Federal Register for a full thirty (30) days while Congress is concurrently in session. However Congress was in session for less than thirty (30) days.

Accordingly Part 3610 published in the Federal Register on November 14,1980 [45 FR 75610] is corrected as follows:

(1) The effective date of January 15, 1981 is corrected to read as follows:

Effective date: March 2, 1981.

Issued at Washington, D.C., December 5, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-38597 Filed 12-11-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7741]

Income Tax; Taxable Years Beginning After December 31, 1953; Discharge of Liabilities on the Sale or Other Disposition of Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the discharge of liabilities on the sale or other disposition of property. These regulations clarify existing regulations. They affect taxpayers who sell or transfer encumbered property and provide them with guidance needed to compute the amount realized on the sale or other disposition of such property.

EFFECTIVE DATE: The regulations apply for taxable years beginning after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1001 of the Internal Revenue Code of 1954 (44 FR 76815). The proposed amendments also added nonsubstantive cross references to the Income Tax Regulations under sections 61, 671, 741, and 1011 of the Code. The amendments were proposed to clarify the rules for computing the amount realized on the sale or other disposition of encumbered property. A public hearing was held on April 10, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. The preamble of the notice of proposed rulemaking summarizes and explains the proposed amendments. The remainder of this preamble discusses the major comments from the public and changes to the proposed regulations and sets forth additional information required by paragraph 14(c) of the Treasury Directive published in the Federal Register for November 8, 1978 (43 FR 52120) implementing Executive Order 12044.

Cancellation of Indebtedness

A number of comments suggested that amounts treated as income from discharge of indebtedness under existing regulations might be treated as amounts realized on the sale or other disposition of property under the proposed regulations. Therefore, the Treasury decision makes it clear that the amount realized on the sale or other disposition of property that secures a recourse liability does not include amounts that are income from the discharge of indebtedness.

Liabilities Excluded From Basis

Some comments suggested that to the extent a liability incurred by reason of the acquisition of property was excluded from the taxpayer's basis, its discharge should not be treated as an amount realized. This is consistent with the Service's ruling and litigating position and is adopted by the Treasury decision.

Partnerships

A number of comments concerned the relationship between the proposed regulations and the partnership rules under section 752, relating to the treatment of certain liabilities. The Treasury decision makes it clear that contributions and distributions of encumbered property between a partner and a partnership are not sales or other dispositions for purposes of section 1001. Thus, such transactions are subject to the partnership rules relating to contributions and distributions. The Treasury decision also makes it clear that the amount realized from the sale or other disposition of a partnership interest includes the amount of partnership liabilities from which a transferor is discharged as a result of the sale or other disposition. Similarly, the transferee treats such liabilities as part of the cost of the partnership interest rather than as a contribution of money by the transferee to the partnership under section 752(a).

Effective Date

One comment suggested that the state of the law in this area was uncertain prior to publication of the proposed regulations and, therefore, the proposed regulations should be applied with prospective effect only. As noted in the preamble of the notice of proposed rulemaking, these amendments merely clarify the existing regulations by setting forth the long-established ruling and litigating position of the Internal Revenue Service. Accordingly, this suggestion is not adopted.

Other Comments

A number of comments suggested that "disposition" be defined to include or exclude certain transactions. These and other suggestions were not adopted because their adoption would be beyond the scope of the statute or would make this regulation unduly long and complex.

Additional Information

These regulations provide taxpayers with the guidance needed to compute the amount realized on the sale or other disposition of property. The Service has considered the direct and indirect effects of this regulation and has determined that they will be insignificant because the regulations merely clarify the existing regulations.

The preceding parts of this preamble evidence Service consideration of the public comments received and respond to the more significant issues raised by those comments. Evaluation of the effectiveness of the regulations after issuance will be based on comments received from offices within the Internal Revenue Service and the Treasury Department, other governmental agencies, state and local governments, and the public.

Drafting Information

The principal author of this regulation is John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

After careful consideration, the amendments to the regulations set forth in the notice of proposed rulemaking are adopted with the following changes to § 1.1001-2 as proposed:

1. Paragraph (a) is revised.
2. Paragraph (b) is changed by deleting the words "which is sold or disposed of" in the first sentence and substituting in their place the words "at the time of sale or disposition", and by adding a new sentence at the end of the paragraph.
3. Examples (3) and (4) of paragraph (c) are changed by adding the phrase "under section 752(d) and this section," at the beginning of the eighth sentence of example (3) and at the beginning of the next-to-last sentence of example (4). In addition, an additional example is added at the end of paragraph (c).

The revised provisions read as follows:

Paragraph 1. The following section is inserted immediately after § 1.1001-1.

§ 1.1001-2 Discharge of liabilities.

(a) *Inclusion in amount realized*—(1) *In general.* Except as provided in paragraph (a)(2) and (3) of this section, the amount realized from a sale or other disposition of property includes the amount of liabilities from which the transferor is discharged as a result of the sale or disposition.

(2) *Discharge of indebtedness.* The amount realized on a sale or other disposition of property that secures a recourse liability does not include amounts that are (or would be if realized and recognized) income from the discharge of indebtedness under section 61(a)(12). For situations where amounts arising from the discharge of indebtedness are not realized and recognized, see section 108 and § 1.61-12(b)(1).

(3) *Liability incurred on acquisition.* In the case of a liability incurred by reason of the acquisition of the property, this section does not apply to the extent that such liability was not taken into account in determining the transferor's basis for such property.

(4) *Special rules.* For purposes of this section—

(i) The sale or other disposition of property that secures a nonrecourse liability discharges the transferor from the liability;

(ii) The sale or other disposition of property that secures a recourse liability discharges the transferor from the liability if another person agrees to pay the liability (whether or not the transferor is in fact released from liability);

(iii) A disposition of property includes a gift of the property or a transfer of the property in satisfaction of liabilities to which it is subject;

(iv) Contributions and distributions of property between a partner and a partnership are not sales or other dispositions of property; and

(v) The liabilities from which a transferor is discharged as a result of the sale or disposition of a partnership interest include the transferor's share of the liabilities of the partnership.

(b) *Effect of fair market value of security.* The fair market value of the security at the time of sale or disposition is not relevant for purposes of determining under paragraph (a) of this section the amount of liabilities from which the taxpayer is discharged or treated as discharged. Thus, the fact that the fair market value of the property is less than the amount of the liabilities it secures does not prevent the full amount of those liabilities from being treated as money received from the sale or other disposition of the property. However, see paragraph (a)(2) of this section for a rule relating to certain income from discharge of indebtedness.

(c) *Examples.* The provisions of this section may be illustrated by the following examples. In each example assume the taxpayer uses the cash receipts and disbursements method of accounting, makes a return on the basis of the calendar year, and sells or disposes of all property which is security for a given liability.

Example (1). In 1976 A purchases an asset for $10,000. A pays the seller $1,000 in cash and signs a note payable to the seller for $9,000. A is personally liable for repayment with the seller having full recourse in the event of default. In addition, the asset which was purchased is pledged as security. During the years 1976 and 1977, A takes depreciation deductions on the asset in the amount of $3,100. During this same time period A reduces the outstanding principal on the note to $7,600. At the beginning of 1978 A sells the asset. The buyer pays A $1,600 in cash and assumes personal liability for the $7,600 outstanding liability. A becomes secondarily liable for repayment of the liability. A's amount realized is $9,200 ($1,600 + $7,600). Since A's adjusted basis in the asset is $6,900 ($10,000—$3,100) A realizes a gain of $2,300 ($9,200—$6,900).

Example (2). Assume the same facts as in example (1) except that A is not personally liable on the $9,000 note given to the seller and in the event of default the seller's only recourse is to the asset. In addition, on the sale of the asset by A, the purchaser takes the asset subject to the liability. Nevertheless, A's amount realized is $9,200 and A's gain realized is $2,300 on the sale.

Example (3). In 1975 L becomes a limited partner in partnership GL. L contributes $10,000 in cash to GL and L's distributive share of partnership income and loss is 10 percent. L is not entitled to receive any guaranteed payments. In 1978 M purchases L's entire interest in partnership GL. At the time of the sale L's adjusted basis in the partnership interest is $20,000. At that time L's proportionate share of liabilities, of which no partner has assumed personal liability, is $15,000. M pays $10,000 in cash for L's interest in the partnership. Under section 752(d) and this section, L's share of partnership liabilities, $15,000, is treated as money received. Accordingly, L's amount realized on the sale of the partnership interest is $25,000 ($10,000 + $15,000). L's gain realized on the sale is $5,000 ($25,000—$20,000).

Example (4). In 1976 B becomes a limited partner in partnership BG. In 1978 B contributes B's entire interest in BG to a charitable organization described in section 170(c). At the time of the contribution all of the partnership liabilities are liabilities for which neither B nor G has assumed any personal liability and B's proportionate share of which is $9,000. The charitable organization does not pay any cash or other property to B, but takes the partnership interest subject to the $9,000 of liabilities. Assume that the contribution is treated as a bargain sale to a charitable organization and that under section 1011(b) $3,000 is determined to be the portion of B's basis in the partnership interest allocable to the sale. Under section 752(d) and this section, the $9,000 of liabilities is treated by B as money received, thereby making B's amount realized $9,000. B's gain realized is $6,000 ($9,000−$3,000).

Example (5). In 1975 C, an individual, creates T, an irrevocable trust. Due to certain powers expressly retained by C, T is a "grantor trust" for purposes of subpart E of part 1 of subchapter J of the Code and therefore C is treated as the owner of the entire trust. T purchases an interest in P, a partnership. C, as owner of T, deducts the distributive share of partnership losses attributable to the partnership interest held by T. In 1978, when the adjusted basis of the partnership interest held by T is $1,200, C renounces the powers previously and expressly retained that initially resulted in T being classified as a grantor trust. Consequently, T ceases to be a grantor trust and C is no longer considered to be the owner of the trust. At the time of the renunciation all of P's liabilities are liabilities on which none of the partners have assumed any personal liability and the proportionate share of which of the interest held by T is $11,000. Since prior to the renunciation C was the owner of the entire trust, C was considered the owner of all the trust property for Federal income tax purposes, including the partnership interest. Since C was considered to be the owner of the partnership interest, C not T, was considered to be the partner in P during the time T was a "grantor trust". However, at the time C renounced the powers that gave rise to T's classification as a grantor trust, T no longer qualified as a grantor trust with the result that C was no longer considered to be the owner of the trust and trust property for Federal income tax purposes. Consequently, at that time, C is considered to have transferred ownership of the interest in P to T, now a separate taxable entity, independent of its grantor C. On the transfer, C's share of partnership liabilities ($11,000) is treated as money received. Accordingly, C's amount realized is $11,000 and C's gain realized is $9,800 ($11,000−$1,200).

Example (6). In 1977 D purchases an asset for $7,500. D pays the seller $1,500 in cash and signs a note payable to the seller for $6,000. D is not personally liable for repayment but pledges as security the newly purchased asset. In the event of default, the seller's only recourse is to the asset. During the years 1977 and 1978 D takes depreciation deductions on the asset totaling $4,200 thereby reducing D's basis in the asset to $3,300 ($7,500−$4,200). In 1979 D transfers the asset to a trust which is not a "grantor trust" for purposes of subpart E of part 1 of subchapter J of the Code. Therefore D is not treated as the owner of the trust. The trust takes the asset subject to the liability and in addition pays D $750 in cash. Prior to the transfer D had reduced the amount outstanding on the liability to $4,700. D's amount realized on the transfer is $5,450 ($4,700+$750). Since D's adjusted basis is $3,300, D's gain realized is $2,150 ($5,450−$3,300).

Example (7). In 1974 E purchases a herd of cattle for breeding purposes. The purchase price is $20,000 consisting of $1,000 cash and a $19,000 note. E is not personally liable for repayment of the liability and the seller's only recourse in the event of default is to the herd of cattle. In 1977 E transfers the herd back to the original seller thereby satisfying the indebtedness pursuant to a provision in the original sales agreement. At the time of the transfer the fair market value of the herd is $15,000 and the remaining principal balance on the note is $19,000. At that time E's adjusted basis in the herd is $16,500 due to a deductible loss incurred when a portion of the herd died as a result of disease. As a result of the indebtedness being satisfied, E's amount realized is $19,000 notwithstanding the fact that the fair market value of the herd was less than $19,000. E's realized gain is $2,500 ($19,000−$16,500).

Example (8). In 1980, F transfers to a creditor an asset with a fair market value of $6,000 and the creditor discharges $7,500 of indebtedness for which F is personally liable. The amount realized on the disposition of the asset is its fair market value ($6,000). In addition, F has income from the discharge of indebtedness of $1,500 ($7,500−$6,000).

Par. 2. Section 1.61-12 is amended by adding at the end thereof the following new paragraph:

§ 1.61-12 Income from discharge of indebtedness.

* * * * *

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition of encumbered property, see § 1.1001-2.

Par. 3. Section 1.671-1 is amended by adding at the end thereof the following new paragraph:

§ 1.671-1 Grantors and others treated as substantial owners; scope.

* * * * *

(f) For rules relating to the treatment of liabilities resulting on the sale or other disposition of encumbered trust property due to a renunciation of powers by the grantor or other owner, see § 1.1001-2.

Par. 4. Section 1.741-1 is amended by adding at the end thereof the following new paragraph:

§ 1.741-1 Recognition and character of gain or loss on sale or exchange.

* * * * *

(d) For rules relating to the treatment of liabilities on the sale or exchange of interests in a partnership see §§ 1.752-1 and 1.1001-2.

§ 1.1001 [Removed]

Par. 5. Section 1.1001 is deleted.

Par. 6. Section 1.1011-2 is amended by adding at the end thereof the following new paragraph:

§ 1.1011-2 Bargain sale to a charitable organization.

* * * * *

(e) *Cross reference.* For rules relating to the treatment of liabilities in a bargain sale transaction, see § 1.1001-2.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: November 17, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-38633 Filed 12-11-80; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

28 CFR Part 0

Delegation of Authority To Settle Tort Claims

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to increase the authority of DEA Regional Directors to $500 in ruling on tort claims. Due to the increased costs of property damage repairs, medical expenses and other expenditures connected with such claims it is deemed appropriate and desirable to increase the monetary limitation delegated to such Regional Directors.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Chief Counsel, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537 (202) 633-1276.

SUPPLEMENTARY INFORMATION: The Administrator of the Drug Enforcement Administration is authorized by Section 0.104, Title 28 of the Code of Regulations to redelegate to any of his subordinates any of the powers and functions vested in him by Subpart R. One of the powers vested in him by Section 0.172(a) Title 28 of the Code of Regulations is to adjust, determine, compromise, and settle tort claims under Section 2672 of Title 28 of the United States Code involving the Drug Enforcement Administration if the amount of the adjustment, compromise, settlement, or award does not exceed $2,500. The Administrator has previously delegated to all Regional Directors of the Drug Enforcement Administration in the Appendix to Subpart R, Section 2(b) the authority to adjust, determine, compromise and settle tort claims where the claim does not exceed $250.

Due to the increased costs of property damage repairs, medical expenses and other expenditures connected with such claims it is deemed appropriate and desirable to increase the $250 monetary limitation delegated to Regional Directors from $250 to $500. Because of the internal nature of this matter, this final rule is being issued without notice and comment procedures and will for the same reason be effective when published.

Therefore, pursuant to the authority contained in 28 CFR 0.172(b) and 28 CFR 0.104, the Appendix to Subpart R is amended as follows:

Appendix to Subpart R [Amended]

Sec. 2(b) is amended by deleting the words "is for property damages not exceeding $250;" and inserting in lieu thereof the words "does not exceed $500;".

Dated: December 8, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 38661 Filed 12-11-80; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[A9-FRL 1697-6]

Federal Assistance Limitations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final agency action.

SUMMARY: EPA, by this notice, announces final action to impose limitations on federal funding assistance for specific areas in the State of California. These limitations apply to funds provided under the Clean Air Act, the Clean Water Act, and the Surface Transportation Assistance Act. This action is being taken pursuant to Sections 176(a) and 316(b) of the Clean Air Act, because the State of California has failed to submit, or is not making a reasonable effort to submit, a nonattainment area plan revision that considers each of the elements in Section 172 of the Clean Air Act.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne Blackard, Chief, Program Development Section, Planning Branch (A-2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105 (415) 556-2937.

EPA has established a rulemaking Docket, 9A-80-1, containing all the information for the final rulemaking, which is available for public inspection during normal business hours at EPA Region IX Office at the above address.

SUPPLEMENTARY INFORMATION:

Background

In 1977 the Clean Air Act (Act) was amended to address the serious health problem posed by the states' failure to attain the National Ambient Air Quality Standards (NAAQS). The deadline for attaining these standards was extended to December 31, 1982. Those states with nonattainment problems were required to submit by January 1, 1979 a nonattainment area plan (NAP) revision to its state implementation plan (SIP). This NAP must be designed to correct the deficiencies in the existing plans and insure that the new attainment deadline will be reached. (Sections 172(a)(1) and 172(b)(1)-(10), 42 U.S.C. 7502(a)(1) and 7502(b)(1)-(10))

In addition, for those areas with serious ozone (O_3) or carbon monoxide (CO) problems, that can demonstrate that even with the implementation of all reasonably available control measures they could not attain the O_3 or CO standards by the end of 1982, the Act allowed EPA upon request of a state to extend the attainment deadline for O_3 and CO beyond 1982 and up to December 31, 1987. (Section 172(a)(2), 42 U.S.C. 7502(a)(2).) In return for this extension for O_3 and CO, the state was required to submit additional measures in its 1979 NAP. (Section 172(b)(11), 42 U.S.C. 7502(b)(11).) One such additional measure was a schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program along with evidence that the state has legal authority to go forward and implement and enforce that program.[1] (Sections 172(b)(10) and 172(b)(11)(B), 42 U.S.C. 7502(b)(10) and 7502(b)(11)(B).)

The basic statutory, regulatory and policy criteria for EPA's review of the 1979 NAP have been summarized and discussed in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20372, April 4, 1979) and its supplements (44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

To insure that federal funds do not further exacerbate the already serious nonattainment problem and to encourage state cooperation, Section 176(a) of the Clean Air Act provided that in certain situations federal funds that would finance or were related to pollution generating activities such as roads or growth related new sewage treatment capacity would be withheld unless there was an acceptable NAP in place to deal with the air pollution problem, or unless the state was making reasonable efforts to develop such a plan.

On April 10, 1980, after prior notice and public comment, EPA published its final policies and procedures governing imposition of the Section 176(a) funding restrictions. (45 FR 24692.) In this notice EPA stated that the geographic applicability of Section 176(a) will be the applicable air quality control region. However, EPA also stated that it would

[1] The state must also show in its 1979 NAP that it is committed to implement and enforce an I/M program, has adequate resources to do so, and that the program once implemented will meet a minimum standard of effectiveness. Sections 172(b)(2), (7) and (10), 42 U.S.C. 7502(b)(2), (7) and (10).

consider applying the limitations to a smaller area if the purpose of the limitations could thereby be better served. (45 FR 24695.)

With respect to the reasonable effort requirement, the notice states that if a state made a good faith effort, judged on a case-by-case basis, to consider all of the Section 172 elements, then the funding limitation would not be imposed. (45 FR 24695.)

Finally, the notice outlines the procedures to be followed in imposing the funding limitations under Section 176(a). These include a notice by letter to the state and affected political entities, followed by a 30-day negotiating period, followed by a formal Notice of Proposed Rulemaking in the Federal Register with 30-day comment period, followed by final action. In addition, a Section 307(d) type docket will be established for the rulemaking. The other administrative procedures provided for under Section 307(d) do not apply to this rulemaking, however, because this is not an action listed or designated by the Administrator under Section 307(d)(1). (42 U.S.C. 7607(d)(1).) Normal notice and comment procedures provided for under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* govern this action.

In addition to Section 176(a), Section 316(b) was also added to the Clean Air Act to allow the Administrator to withhold, condition or restrict funds for the construction of sewage treatment works if he determines that a state does not have an approved SIP or that the approved SIP does not provide for the increased emissions resulting directly or indirectly from the operation of the facility. (Section 316(b) 42 U.S.C. 7616(b).) The EPA policy for implementing Section 316(b) was published in the Federal Register on August 11, 1980 (45 FR 53382).

For the purpose of attaining and maintaining clean air, California has divided itself into fourteen air basins, six of which, or portions thereof, are urban areas of greater than 200,000 population which have been designated nonattainment for either O_3 or CO and have requested an extension of the attainment deadline for those pollutants beyond 1982. These areas are:

Nonattainment area	Pollutant for which an extension of the attainment date is requested
South Coast Air Basin [1]	O_3, CO.
San Francisco Bay Area Air Basin [2]	O_3, CO.
San Diego Air Basin [3]	O_3, CO.
Ventura County portion of the South Central Coast Air Basin.	O_3.
Sacramento Metropolitan Area [4]	O_3, CO.[5]
Fresno County portion of San Joaquin Valley Air Basin.	O_3, CO.

[1] Described in Section 60104, Title 17, California Administrative Code.
[2] Described in Section 60101, Title 17, California Administrative Code.
[3] Described in 40 CFR 81.164, dated July 1, 1979.
[4] The Sacramento Metropolitan Area consists of Sacramento County, Yolo County, that portion of Solano County in the Sacramento Valley Air Basin (as described in Section 60106(j), Title 17, California Administrative Code), and that portion of Placer County lying west of the eastern boundary of R. 7 E., Mt. Diablo Base and Meridian (MDB&M), and that portion lying south of the northern border of T. 11 N., MDB&M.
[5] The September 8, 1980 FEDERAL REGISTER Notice (45 FR 59180) proposing the funding limitations which are the subject of today's action did not identify the Sacramento Metropolitan Area as one for which the State of California had requested an extension of the CO attainment deadline. This was a clerical error. The State of California did request this extension, and on September 5, 1980, in a FEDERAL REGISTER Notice (45 FR 58883) proposing to disapprove the Sacramento Metropolitan NAP, EPA clearly stated that California had requested an extension for CO as well as O_3. This inadvertent failure to identify Sacramento as requesting an extension request for O_3 was identified in the September 8 notice, and that request alone would be a sufficient basis upon which to required I/M.

Under the Clean Air Act, the NAPs for these areas, which must include the required elements of an I/M program, were to have been submitted to EPA by January 1, 1979, and EPA was to have acted upon them by July 1, 1979. As of July 1, 1979, however, California had not submitted a NAP for any of the air basins listed above. Subsequent to July 1, 1979, the State has submitted NAPs for the areas in question and has included an I/M program in each of the plans. The State has failed, however, to provide evidence in its NAPs, as required under Section 172(b)(10), that it has legal authority to implement and enforce an I/M program. Because of this major deficiency EPA found it necessary to propose to disapprove the O_3 and/or CO portions of the NAPs for the San Diego Air Basin (44 FR 57110, Oct. 4, 1979), South Coast Air Basin (45 FR 21271, April 1, 1980), San Francisco Bay Area Air Basin (45 FR 58883, September 5, 1980), the Ventura County portion of the South Central Coast Air Basin (45 FR 58897, September 5, 1980), the Sacramento Metropolitan Area (45 FR 58883, September 5, 1980), and the Fresno County portion of the San Joaquin Valley Air Basin (45 FR 58912, September 5, 1980).

The California Legislature considered indepth in 1978 and again in 1979 and 1980 various bills to provide legal authority for implementation and enforcement of an annual I/M program. In fact, a bill to provide authority for an I/M program has been before the California legislature for each year since at least 1975. A bill that could have provided legal authority passed the California Senate in January 1980, but failed to be voted out of a key Assembly committee in early June of this year. Other bills, in the California Assembly, that have had extensive hearings and could have been the basis for adequate legal authority, have not been passed by the Legislature.

On June 16, 1980, almost one year after the July 1, 1979 deadline, EPA informed California by letter to the Governor that because of the State's failure to provide evidence of legal authority for I/M, EPA was beginning the procedures for imposing the funding limitations under Sections 176(a) and 316(b) by starting the 30-day negotiating period. EPA officials have met with numerous State and local officials, and representatives from business, labor and environmental groups in an effort to resolve this problem.

In addition, EPA extended this negotiation period by 6 weeks to September 1, because of assurances of legislative support and because of the ongoing consideration of potentially acceptable legal authority. This extension has expired, however, without California having adopted the necessary adequate I/M authority.

As a result of California's continued failure to adopt adequate I/M legal authority, EPA proposed the federal assistance limitations in a Notice of Proposed Rulemaking in the Federal Register on September 8, 1980 (45 FR 59180). The proposed rulemaking provided for a 45-day comment period which ended on October 23, 1980.

Response to Public Comments

Many comments were submitted during the 45-day public comment period. Following are the responses to the significant comments received by EPA with respect to the policy, technical and legal issues involved in this rulemaking.

Policy Issues

Many of those commenting raised issues of a policy nature regarding the proposed funding limitations. Generally, these comments pertained to: (1) EPA's determination of impacted projects, (2) the overall environmental value of the funding limitations, (3) the public acceptance of inspection and maintenance, (4) the economic impacts of the funding limitations, and (5) California's efforts to control air pollution.

1. *Impacted projects.* The decision made today is a general finding that for certain geographic areas, the State of California has failed to submit or make reasonable efforts to submit a NAP that adequately considers an I/M program. This determination means that for those areas federal funds specified in Section

176(a) and 316(b) will be withheld. Actual withholding of funds, however, will occur on a case-by-case basis as the grants are individually applied for. Therefore at this time it is not possible to precisely identify specific projects affected by this action. As mentioned above, the criteria and procedures to be used in applying funding limitations have been published in the Federal Register on April 10, 1980 (45 FR 24692) and August 11, 1980 (45 FR 53382). Region IX of EPA has prepared procedures and criteria to be used in identifying affected projects. These procedures and criteria are merely refinements of those mentioned in the EPA procedures for implementing Sections 176(a) and 316. These procedures and criteria are available to the public on request.

Although specific projects affected cannot be identified until grant applications are received, a response to comments concerning the more general application of the funding limitations will help clarify the impact of this decision. One commenter suggested that the funding limitations not apply to programs which are mandated by either the state or federal government. The funds potentially affected by this rulemaking are those expressly included within Section 176(a) and Section 316(b) and therefore their specific inclusion within these limitations supersedes more general funding mandates.

One commenter wanted to know if the funding limitations apply to Federal Aid Urban (FAU) funds used to construct transit projects. Section 176(a) of the Act provides that the Secretary of Transportation shall not approve any projects or award any grants under the Surface Transportation Assistance Act (23 U.S.C. 101 *et seq.*), which includes FAU funds, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Therefore, while decisions on individual projects will be made on a case-by-case basis, FAU funds used to construct transit projects that fall under the mass transit category would be exempt, as a general rule. FAU funds are not exempt, however, as a funding category.

Another commenter requested information as to whether funding limitations would apply to highway projects where the air quality impacts are neutral or where air quality impacts are undeterermined. Section 176(a) provides that no highway funds shall be authorized unless they fall within specific exemptions. Regarding air quality impact, only those highway projects directly related to air quality improvement or maintenance are exempted under Section 176(a). (A more complete definition of transportation improvement projects related to air quality improvement or maintenance is given in the April 10, 1980 Federal Register notice.) Therefore, projects with neutral or undetermined air quality benefits will generally be affected by the limitations unless, upon review, it is determined that they fall within other statutory exemptions.

Several commenters were concerned with the effect of the funding limitations on sewage treatment works construction grants. EPA is not making the rulemaking retroactive, i.e., no payments will be stopped for grant awards made prior to the effective date of this rulemaking. The grant process is structured such that EPA awards grants in discrete stages or steps, and a separate grant request is made for each step. Each grant request is then assessed on its own merits. Therefore, in the case where a Step 1 or Step 2 award has already been made, subsequent Step 2 or Step 3 grants will be approved only if the project is exempted from funding limitations in accordance with the previously mentioned review criteria. Amendments to an existing grant may be approved for reasons such as revised cost estimates or construction bids. However, amendments will not be granted if they change the original scope of the project.

2. *Overall environmental value of the funding limitations.* Several commenters suggested that the overall effect of the funding limitations would be environmentally counterproductive. A review of the statutory provisions in question shows this not to be so. Section 176(a) provides express exemptions from the funding limitations for "safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance". Specifically, with respect to § 105 funds the Administrator has interpreted § 176 to allow the EPA Regional Administor "to award grants available under the Clean Air Act to state and local air quality control agencies (including lead planning agencies designated under Section 174 of the Act) if he/she finds such grants necessary for immediate air quality benefits or development of SIP revisions." Therefore, Section 105 air grants that fall within the above exemption will not be withheld, even though the funding limitations are in effect in that area.

Also, funds for sewage treatment works projects may be withheld only when a state does not have an approved air quality plan that compensates for the adverse air quality impacts caused by the increased growth resulting from increases in sewage treatment capacity. The procedures adopted by the Administrator for implementing Section 316 of the Act allow exemptions from funding limitations for those sewage treatment works that are needed for relief of an immediate health hazard but do not expand usable capacity by more than one million gallons per day, and for those projects which improve treatment capability but do not expand capacity for future growth. (45 FR 53382).

3. *Public acceptance of I/M.* A number of those commenting referred to a lack of public acceptance of I/M. EPA has found that the public does support I/M and the air quality benefits it provides in those states where I/M has been implemented. Public support is especially evident after the implementation period has passed and the public has had an opportunity to experience the program first hand. This is evidenced by public opinion surveys in areas which have operating I/M programs. For instance, of 600 residents polled in Arizona, 58% favored retention of the existing I/M program because they felt air pollution is a serious problem. Also, in a random distribution of 3,245 questionnaires to New Jersey motorists as they arrived at the inspection station, it was found that 83% favored continuation of the I/M program.

4. *Economic impact.* It was felt by some commenters that the funding limitations will have adverse impacts on employment opportunities and will stifle economic growth in California. A comment was also made that the cost of projects postponed due to the funding limitations may inflate to the point that projects are no longer economically feasible. The economic consequences of the funding limitations cannot precisely be determined at this time because withholding of funding will occur on a case-by-case basis. Adverse economic consequences are not the intended effect of these limitations. In the final analysis, however, the statute itself has struck the balance between any potential economic impact and the health benefits that will result from this action.

5. *California's overall air pollution control efforts.* Many commenters felt that California has been a national leader in implementing measures to improve air quality, and as such, should not be subject to the funding limitations. Such programs as the California new car emission limits, which are more stringent than the federal standards, and the existing requirement for I/M in the

South Coast Air Basin upon transfer of ownership were mentioned in support of this comment. There is no question that in the past California has been a leader in implementing air pollution control programs and that these programs have resulted in air quality benefits. But there is also no question that the State's urban areas face an air pollution problem so serious that existing State control measures simply do not have the capacity to deal with this situation. In the major metropolitan centers of California, where ozone pollution problems are severe, an extension beyond the statutory attainment date of 1982 is necessary. In such cases, all reasonably available measures applied to both stationary and mobile sources are needed as soon as possible. Thus, while California has certainly made strides in air pollution control, air pollution remains a problem, and additional controls are needed.

Given the need for additional controls on mobile sources, I/M is the most reasonable strategy to implement. I/M is an effective, practical and cost-effective control measure to reduce CO and HC emissions from mobile sources. Emissions from automobiles even with pollution control equipment increase over time from poor adjustments and maintenance. I/M significantly reduces this deterioration. There has been a substantial national investment in automobile emission control, and I/M ensures that the full emission reduction potential from this investment is achieved. Moreover, without I/M, stationary sources might have to bear an even larger share of the air pollution control burden than they presently are required to do.

Technical Issues

Several comments were received regarding the technical aspects of I/M. The main point of most of these comments was that an I/M program was not cost-effective, i.e., it resulted in too little emission reduction at too high a cost. After closely examining all aspects of I/M, Congress found the program to be reasonable both as to effectiveness and cost. (H.R. Rep. No. 95–294, 95th Cong., 1st Sess. at 230, 281–291 (1977); S. Rep. No. 95–127, 95th Cong., 1st Sess. at 40 (1977)) The House of Representatives Report on the 1977 Amendments to the Clean Air Act states: "the Committee found that vehicle inspection and maintenance programs would be cost-effective measures for reducing air pollution in highly polluted urban areas, particularly when compared to many other more disruptive strategies." (H.R. Rep. No. 95–294, *supra* at 286.)

Results from actual I/M programs confirm these conclusions on the cost-effectiveness of I/M. Moreover, I/M has been shown persuasively to be an effective air pollution control strategy. For example, in Portland, Oregon, an ongoing study of that city's I/M program indicates that, on a fleet-wide annualized basis, Portland has experienced a 20% reduction in motor vehicle hydrocarbon exhaust emission levels and a 36% reduction in carbon monoxide exhaust emission levels due to I/M alone. Reductions in hydrocarbon emissions result in a reduction in the ambient level of ozone because hydrocarbons are the prime contributors to ozone formation. Also, studies from New Jersey have shown that the combination of New Jersey's I/M program and the new car emission standards has resulted in reductions of carbon monoxide ambient air levels.

With regard to the costs of an I/M program, figures to date show that they are reasonable. Inspection fees for existing I/M programs vary considerably, from a low of $2.50 in New Jersey to a high of $11.00 in California's South Coast program (plus $7.00 in California for those vehicles needing retest). These fees are not excessive, especially in view of the fact that they generally cover all the costs of the program, including administration, operation and enforcement. Additional costs may be incurred should the vehicle fail the inspection tests and repairs be required. However, the average cost of such repairs is generally less than $35, with common causes of failures being improper carburetor idle adjustment, worn-out spark plugs, defective ignition wires, and improper spark timing. Most failures result from improper maintenance and can be corrected with a minor tune-up. To mitigate the financial burden on any one individual, EPA has allowed states to provide waivers for repairs over specific cost limits. Any costs of an I/M program must be balanced against its benefits, which include not only the direct impact on the public health, but also the reduction in health care costs associated with air quality improvements, and any fuel savings resulting from engine adjustments.

Two commenters were concerned that the costs of I/M may hurt the poor the most, as they are the ones who can least afford to pay. Older cars in an I/M program are not expected to meet the same standards as the new models with more sophisticated emission control systems. The pass/fail standards for each model year are normally set to be well within the design capability of the automobile. In addition, cost limits on repairs may be set to avoid unduly penalizing that portion of the population driving older cars which might require more expensive repair to meet the standards. In any event, the annualized costs of owning and operating a motor vehicle will not be significantly increased by any additional costs due to I/M

Legal Issues

Many of the comments received addressed issues primarily legal in nature. These issues can be subdivided as follows: (1) the legal requirements for an I/M program; (2) the legal requirements of Section 176(a); (3) the geographic applicability of the funding limitations; (4) the constitutionality of the funding limitations; (5) EPA's obligation to promulgate an I/M program; (6) the legal requirements of Section 316(b); and (7) requests for an extension of the comment period.

1. *Legal requirement for I/M.* Section 172(b)(11)(B) of the Clean Air Act requires that a state's 1979 NAP include an I/M program for all areas that have demonstrated that they will not be able to achieve the carbon monoxide or ozone ambient air quality standards by the 1982 attainment deadline and for which the State has requested an extension of that deadline. This is a mandatory requirement; the Act does not allow for substitution of alternative measures. Furthermore, the Act specifically requires that evidence of legal authority to implement and enforce this program be included in the state's 1979 NAP. (Section 172(b)(10). See also Section 110(a)(2)(F).)

One commenter, evidently relying upon Section 172(a)(2), suggested that the requirement for an I/M program arises only if the state's demonstration of its inability to meet the 1982 attainment deadline is submitted on or before January 1, 1979 (the date the state's NAP was due). If the commenter's interpretation of the Act is correct, then a state that submitted its demonstration and request for an attainment date extension after January 1, 1979 would be in the absurd position of neither having an obligation to adopt an I/M program nor being eligible for the requested extension. A common sense reading of the statute clearly indicates that neither result should arise from simply missing this deadline.

This same commenter also asserted that the obligation to adopt an I/M program does not arise until the Administrator is satisfied with the state's demonstration that it cannot meet the 1982 attainment deadline. Section 172(b)(11)(B) clearly states that

"in the case of plans which make a demonstration pursuant to Paragraph (2) [which is the demonstration that the state cannot attain the 1982 deadline]", its 1979 NAP must also include an I/M program. This subsection, read in conjunction with Section 172 as a whole, clearly indicates that both the demonstration of a state's inability to attain the 1982 deadlines and the I/M program this demonstration triggers would be included in the same SIP submittal. Thus, the Act plainly does not require that the Administrator somehow be satisfied with the demonstration before the obligation to adopt an I/M program arises.

Another commenter suggested that since 1987 is the deadline for attainment of the ozone and carbon monoxide ambient air standards in areas requiring I/M, EPA's requirement for legal authority in 1979, and thus the imposition of the funding limitations for failure to have such legal authority, is premature. For those areas with post-1982 attainment deadlines, the Act expressly requires that an I/M program with adequate legal authority be included in the State's 1979 NAP. Under Section 176(a) the failure of a state to include or make reasonable efforts to include legal authority leaves the Administrator no choice but to invoke the funding limitations. Therefore, under the statute, neither action is premature. Also, the commenter's focus on the 1987 deadline is misplaced. The Act requires attainment *"as expeditiously as practicable* but no later than December 31, 1987." (emphasis added) (Section 172(a)(2).)

2. *Legal requirements of section 176(a).* Section 176(a) requires that certain federal funds be withheld when the Administrator determines that the state (A) has not submitted a NAP that "considers each element of Section 172" or (B) is not making "reasonable efforts" to submit such a plan.

A. *Section 176(a) requirement to "consider each element of Section 172."* As discussed, legal authority for an I/M program is a critical element of Section 172. The Administrator has found that California's failure to adopt and certify the existence of I/M legal authority in its NAP is a failure to "consider" a Section 172 element under Section 176(a). Several commenters have taken issue with this finding, asserting that the current California NAP does adequately consider I/M because it contains an I/M program in the South Coast Air Basin that tests vehicles upon change of ownership. This current program is inadequate to meet the Act's requirements in several respects. It tests automobiles only when a change of ownership occurs, which is far too infrequent (1) to insure that the emission reductions the state has claimed from I/M in its 1979 NAP will be achieved, and (2) to provide for a reasonable effective program which has been determined by the Administrator to include annual inspection in most situations. Also, the geographic area of the current program does not include many of the areas in California that are required under the Act to adopt an I/M program.

Several commenters stated that California's inclusion of an expanded I/M program in its 1979 NAP is adequate to meet the Act's requirements. While California in its 1979 NAP does contain annual I/M as a measure and does claim an emission reduction credit for it, the NAP does not contain evidence of legal authority for that program, as required by Section 172(b)(10). This is a critical omission. Without legal authority California clearly cannot implement and enforce an I/M program nor claim credit in its NAP for the reductions an I/M program would achieve.

Regarding legal authority, several commenters stated that California has met the requirement to consider this key element in that the State Legislature has already addressed the issue. These commenters believe that actual adoption of I/M authority is not needed to meet the "consideration" requirement of Section 176(a). EPA has interpreted the "consider" requirement of Section 176(a) to mean that the funding limitations will be imposed when a state has failed to incorporate the required elements of Section 172 into its NAP or has not made a good faith effort to do so. (45 FR 24695, April 10, 1980).

To give any real meaning to the Section 176(a) mandate that a SIP "consider" each Section 172 element, it must be read to require actual incorporation of such elements. Otherwise, there would be little incentive for a state to submit a plan that actually was capable of reducing air pollution if it could avoid the funding cut-off by simply submitting a plan that indicated that it had thought about adopting the required provisions. Mere examination or discussion of I/M by the State Legislature is not enough to meet the "consideration" requirement.

B. *Section 176(a) requirement to make "Reasonable Efforts."* The Administrator has concluded that California is no longer making reasonable efforts to consider a NAP that includes I/M legal authority. Several commenters disagreed, asserting that even if California's current NAP does not "consider" I/M legal authority, California is making a "reasonable effort" to revise its plan to consider I/M and therefore the imposition of the funding limitations is unwarranted.

In support of this assertion some commenters pointed out that California has been a leader in the design and implementation of air pollution control programs, and that these programs constitute "good faith efforts." It is true that California has adopted air pollution control measures that are more stringent than those of many other states. The precise question under Section 176(a), however, is whether California, as a state that has requested an attainment date extension and, therefore, is required to adopt an I/M program, is making reasonable efforts do do so. While it is commendable that California has taken independent measures to address its severe air pollution problem, those measures are not enough to satisfy the Clean Air Act's specific requirements or, as the recent prolonged air pollution smog alert in California indicates, the State's real air quality needs as well.

Numerous commenters pointed out that the legislature has been considering I/M legislation for a number of years and efforts by State officials to adopt this legislation continues. Such actions, these commenters asserted, constitute "reasonable efforts." The question of when a state is no longer making reasonable efforts under Section 176(a) is primarily a judgment that can be made only after due consideration of the factors involved in each case.

In the case of California the facts are clear. The state was put on notice of the requirement for I/M with the passage of the Clean Air Act Amendments in August of 1977, over three years ago. The statutory deadline for submittal of legal authority was January 1, 1979, nearly two years ago. The California Legislature has debated the question of I/M authority during each of the last six years and has failed each time to adopt adequate legislation. The Legislature adjourned its 1980 session and, after debating extensively several I/M bills, has failed once again to act on any of them. California is one of only two states (the other is Kentucky) out of the twenty-nine that needed I/M that do not have adequate legal authority.

The Administrator has considered all of the above facts. The excessive length of time that California has had to act, its repeated failure to do so, the continuing health threat posed by the State's poor air quality, and the need to act in an equitable manner with respect to all of the states that are required to adopt I/M, lead to the inescapable conclusion that California can no longer be considered to be making reasonable

efforts. Moreover, given the compelling nature of these facts, it is the Administrator's judgment that the State will actually have to adopt adequate I/M legal authority in order for the Administrator to be able to find that the State is making sufficient efforts to justify lifting the restrictions now being imposed.

3. *The geographic applicability to the funding limitations.* As stated in Section 176(a) of the Clean Air Act, specific categories of federal funds are to be withheld in air quality control regions for which the Governor has not submitted a plan or for which reasonable efforts are not being made to submit a plan considering each of the elements required by Section 172 of the Act. The EPA–DOT policy and procedures memorandum implementing 176(a) (April 10, 1980; 45 FR 24692) states that: "Generally, the area affected will be the air quality control region (AQCR). However, EPA will consider applying the Federal assistance limitations to portions of an AQCR * * * if the purpose of the limitation would be better served through more selective application." As previously stated, EPA has proposed the funding limitations for the San Francisco Bay Area Air Basin, the South Coast Air Basin, the San Diego Air Basin, Ventura County, Fresno County, and the Sacramento Metropolitan Area. In the case of San Diego, this area is the AQCR. The other areas are smaller than AQCRs.

Comments were received requesting EPA to both shrink and expand the boundaries of the affected areas. EPA has decided to leave the boundaries of the affected areas as proposed in the Notice of Proposed Rulemaking. The reason for this decision is that with respect to I/M, EPA believes that the geographic areas of funding limitations should correspond to the geographic areas where Section 172 requires an I/M program even if those areas are smaller then the AQCRs. Section 172 of the Clean Air Act requires that an I/M program be implemented and enforced in any urbanized area which needs an extension beyond 1982 to attain the ozone or carbon monoxide NAAQS. California has requested an attainment date extension for the urban areas listed earlier in this notice. The state has submitted plans which included an I/M program for these areas. EPA agrees that these are the areas that need I/M. However, the plans were deficient in that they did not include the required legal authority for I/M. It is this deficiency that has led to the funding limitations invoked today. Therefore EPA has limited the effect of today's action to these areas.

A commenter also stated that because no local governmental body in the San Diego region is responsible for the lack of legal authority for I/M, the funding limitation should not be applied in that area. EPA has determined that the governmental agency directly responsible for California's failure to adopt an adequate I/M program is the Legislature. The Legislature alone possesses the legal authority to remedy that failure, but has not done so. Since the San Diego nonattainment area is represented in the State Legislature, and since the Legislature has failed to enact the required I/M measures, the funding limitations must be applied to San Diego as well as to other nonattainment areas requiring I/M.

4. *The constitutionality of the funding limitations.* Several commenters suggested that the funding limitations proposed by EPA violate both the 10th Amendment and Art. IV of the U.S. Constitution because they displace and interfere with state governmental functions. The funding limitations do not displace state functions, and are not inconsistent with 10th Amendment principles enunciated by the Supreme Court in *national League of Cities v. Usery*, 426 US 833 (1976). Rather they are an exercise of Congress' traditional power to attach conditions to the funds it distributes in order to achieve legitimate national goals. The *Usery* case dealt with a statutory enactment based solely on the commerce power, and the majority of the Court expressly stated that the opinion did not address the question of the federal government's spending powers. Since this decision, courts have consistently refused to extend the rationale of that case to the spending clause.

Under the traditional test used to examine the constitutionality of Congressional action under the spending clause, Sections 176 (a) and 316(b) clearly are a permissible exercise of that Congressional power. A condition attached by Congress to grants available to the states which is rationally related to a legitimate national purpose does not go beyond the bounds of the federal government's authority under the spending power. (*Steward Machine Co. v. Davis*, 301 US 548 (1973).) It is clear that the construction and operation of highways have a substantial relationship to the generation of air pollution. Similarly, new residential and industrial growth fostered by new sewage treatment capacity will also result in an increase in air pollution. Thus, there is a firm rational relationship between the legitimate national goal of clean air and the funding limitations incorporated in Section 176(a) and 316(b). Therefore, no constitutional defect exists.

Furthermore, even under the *Usery* opinion the funding restrictions are not an impermissible infringement upon a state's sovereignty. They do not directly replace a state function or "displace the state['s] freedom to structure intergral operations in areas of traditional governmental functions." Therefore, the funding restrictions are a proper exercise of Congressional power under the Constitution.

5. *EPA's obligation to promulgate an I/M program.* Several commenters asserted that, pursuant to Section 110(c) of the Act, the Administrator himself is required to promulgate a revised SIP instead of requiring California to adopt an I/M program. The overall statutory scheme of the Clean Air Act and in particular the 1977 amendments are premised on the paramount role of the states in carrying out the objectives of the Act. To help encourage state participation and insure that air quality will not deteriorate, the Act conditions the receipt of certain federal funds upon state action. Federal promulgation is an option open to the Administrator if a state should decline to act. But this drastic remedy should be one of last resort, to be taken only after other efforts, including withholding funds, have had a chance to work.

6. *The legal requirements of Section 316(b).* Section 316(b) grants the Administrator authority to withhold, condition or restrict grants for sewage treatment works if the state does not have in effect or is not carrying out an approved state implementation lan that takes into account and provides for the increased emissions resulting directly or indirectly from the construction of new sewage treatment capacity. One commenter stated that Section 316 is project-specific and therefore EPA cannot make a single area-wide determination to withhold funds for all projects within that area. As stated before, today's decision is a finding that for specific areas the State does not have an adquate approved plan. Withholding of individual grants based on this decision will be decided on a case-by-case basis. However, today's findings concerning California's lack of an approvable plan have been made after adequate notice and comment and will be controlling in any subsequent grant action.

7. *Request for extension of the comment period.* Several commenters requested that the period in which to comment on EPA's proposed action be

extended beyond October 23, 1980. EPA feels that extension of the comment period is not warranted for the following reasons. First, after informing the Governor on June 16, 1980 that procedures for imposing the funding limitations were to begin, the normal 30-day negotiating period was extended by six weeks to September 1, 1980. During that extended negotiating period, EPA officials met with numerous state and local officials, as well as with representatives from business, labor and environmental groups. Second, the normal 30-day comment period provided under published Section 176(a) procedures was extended here to 45 days because of the controversial nature of this action. Hence, EPA feels that this matter has been before the public for a sufficient period of time and that anyone wishing to comment had an adequate opportunity to do so.

EPA Findings

For the air basins listed above, California has failed to submit NAPs that include evidence of I/M legal authority. As explained above, Section 172(b)(10) requires such evidence for each of the basins listed above and lack of such evidence means that a critical element of Section 172 has not been considered. Therefore, the Agency hereby finds that for each of these air basins, California has not submitted a NAP that considers each of the required elements of Section 172.

In addition, at the present time EPA finds that California is no longer making a reasonable effort to submit air basin plans that consider each of the Section 172 elements. The State Legislature has had numerous opportunities to adopt the needed I/M legal authority. Also, more than a year and a half has passed since California was to have submitted NAP's that included such legal authority. These facts, considered in light of the continuing health threat posed by the serious nonattainment problem in these areas, indicate that California is not making reasonable efforts to submit acceptable NAPs.

In view of the above facts the Administrator also finds that California does not have a presently approved SIP for the purposes of Section 316(b) of the Clean Air Act.

Effect of Rulemaking

EPA, by this notice, imposes limits on certain types of federal assistance in the air basins previously mentioned. The Secretary of Transportation shall not approve any projects or award any grants under the Surface Transportation Assistance Act (23 U.S.C. 101 *et seq.*) except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. EPA Region IX and the Federal Highway Administration have developed interagency procedures and project criteria for making case-by-case determinations as projects are submitted for funding. The project criteria are merely refinements of those mentioned in the EPA-DOT policy and procedures memorandum for implementing Section 176(a) (45 FR 24692, April 10, 1980).

Also potentially affected will be the award of certain air grants authorized under the Clean Air Act (42 U.S.C. 7401 *et seq.*), including Section 105 grants, to local air quality control districts.

Finally, EPA will also withhold certain grants for the construction of sewage treatment works available under Section 201(g) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) to municipalities, sanitation districts, or other eligible grantees located in the affected basins. The EPA Administrator may fund specific sewage treatment works projects which are needed for relief of an immediate public health hazard but will not expand usable capacity by more than one million gallons per day, or projects which will improve treatment capability but will not expand usable capacity for future growth. EPA Region IX has developed procedures and criteria for making case-by-case determinations as projects are submitted for funding. The procedures and criteria are merely refinements of those mentioned in the EPA procedures for implementing Section 316 (45 FR 53382, August 11, 1980).

In order to remove the limitations on Federal assistance, EPA will publish a Notice of Proposed Rulemaking in the Federal Register and allow for a public comment period regarding such action. After evaluation of public comments, if EPA decides to remove the limitations, EPA will publish a Notice of Final Rulemaking which authorizes rescission of the federal assistance limitations. The limitations, however, remain in effect until publication of the Notice of Final Rulemaking.

EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act judicial review of this final agency action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by February 10, 1981. Also, the findings that are the subject of today's notice may not be challenged in any administrative or judicial proceeding concerning the withholding, denial, restricting, or conditioning of any individual grant of funds pursuant to today's action.

This action is being made immediately effective, as provided in the joint EPA/DOT Section 176(a) policy and procedure memorandum. (45 FR 24692, 24696, April 10, 1980). Also EPA finds that good cause exists for making this action immediately effective: (1) because of the serious public health needs it is intended to address; (2) because the public has already had more than ample opportunity to comment on today's action; and (3) to avoid dilution of the purpose of this rulemaking by the issuance of grants before the effective date.

(Secs. 110, 172, 176(a), 301, and 316 of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7502, 7506(a) and 7616))

Dated: December 5, 1980.

Douglas Costle,

Administrator.

[FR Doc. 80-38330 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-26-M

---

40 CFR Ch. I

[A-4-FRL-1697-7]

Federal Assistance Limitations; Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Final agency action.

SUMMARY: This notice will limit certain Federal funding assistance for specific areas in the Commonwealth of Kentucky. These limitations apply to funds provided under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the Surface Transportation Assistance Act, 23 U.S.C. 101 *et seq.* This action is being taken pursuant to Sections 176(a) and 316(b) of the Clean Air Act, 42 U.S.C. 7506(a) and 7616(b). because the Commonwealth of Kentucky has failed to submit or make a reasonable effort to submit a Part D State Implementation Plan (SIP) revision for certain areas of the Commonwealth that considers each of the elements in Section 172 of the Clean Air Act, (42 U.S.C. 7502). EPA proposed this action in the Federal Register on September 19, 1980 (45 FR 66506). A 45-day public comment period was allowed ending November 3. This notice takes into consideration all comments received. Today's action does not affect in any way any construction moratorium imposed under the Clean Air Act in any nonattainment area in the Commonwealth of Kentucky.

EFFECTIVE: December 12, 1980.

ADDRESSES: Copies of the comments received may be examined during normal business hours at the following locations: EPA, Region IV Library, 345 Courtland Street, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Lyttle of the EPA, Region IV Air Programs Branch at 404/881/2864 or FTS 257-2864. EPA has established a rulemaking docket, FRN-266-O-P-01, containing all the information for the final rulemaking which is available for public inspection during normal business hours at the EPA region IV Library at the above address.

SUPPLEMENTARY INFORMATION:

Background

In 1977, Congress amended the Clean Air Act to address the serious health problem posed by the states' failure to attain the National Ambient Air Quality Standards (NAAQS). While extending the deadline for attaining these standards to December 31, 1982, Congress required any state with nonattainment problems to submit by January 1, 1979, a nonattainment plan (NAP) revision to its state implementation plan (SIP) that meets the requirements of Part D of Title I of the Clean Air Act, 42 U.S.C. 7501-7508. This Part D SIP revision must be designed to correct the deficiencies in the existing SIP and insure that the new attainment deadlines will be reached. (Sections 172(a)(1) and 172(b)(1)-(10), 42 U.S.C. 7502(a)(1) and 7502(b)(1)-(10)). In addition, for those areas with serious automobile-related pollution problems caused by ozone (O_3) or carbon monoxide (CO) that can demonstrate that even with the implementation of all reasonably available control measures they could not attain the O_3 or CO standards by the end of 1982, Congress allowed EPA upon request of a state to extend the attainment deadline for O_3 or CO standards up to December 31, 1987. (Section 172(a)(2), 42 U.S.C. 7502(a)(2).)

In return for this extension for O_3 and CO, Congress required the requesting state to submit additional measures in its 1979 Part D SIP revision. Section 172(b)(11), 42 U.S.C. 7502(b)(11). One such additional measure was a schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program along with certification that the state has legal authority to go forward and implement and enforce that program.[1] (Sections 172(b)(10) and 172(b)(1)(b), 42 U.S.C., 7502(b)(10) and 7502(b)(11)(b).)

The basic statutory, regulatory, and policy criteria for EPA's review of the 1979 nonattainment plan have been summarized and discussed in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Area (44 FR 20372, April 4, 1979) and its supplements (44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

To insure that Federal funds do not further exacerbate already serious nonattainment problems and to encourage state cooperation, Congress provided that in certain situations Federal funds that would finance or were related to pollution generating activities such as highways or new sewage treatment plant capacity would be withheld unless there was an acceptable SIP in place to deal with the air pollution problem or, at a minimum, unless the state was making reasonable efforts to develop such a plan. Specifically, Congress adopted Section 176(a), 42 U.S.C. 7506(a), which provides:

(a) The Administrator shall not approve any projects or award any grants authorized by this Act and the Secretary of Transportation shall not approve any projects or award any grants under Title 23, United States Code, other than for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance, in any air quality control region—

(1) In which any national primary ambient air quality standard has not been attained,

(2) Where transportation control measures are necessary for the attainment of such standard, and

(3) Where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by Section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1982, in the case of an implementation plan revision required under Section 172 to be submitted before July 1, 1982).

On April 10, 1980, after prior notice and public comment, EPA published its final policies and procedures governing imposition of the Section 176(a) funding restrictions (45 FR 24692). In this notice EPA stated that the geographic applicability of Section 176(a) will be the applicable air quality control region. However, EPA also stated that it would consider applying the limitations to a smaller area if the purpose of the limitations could thereby be better served (45 FR 24695). The notice also discussed what adequate consideration of all the required elements in Section 172 would entail, pointing out that the state has an affirmative duty to investigate and compile data on the required elements, analyze that data, and consider and incorporate the required elements into the SIP in a manner consistent with the intent and purposes of the Act. (*Id.*). With respect to the reasonable effort requirement, the notice states that if a state made a good faith effort, judged on a case-by-case basis, to consider all of the Section 172 elements, then the funding limitations would not be imposed. (*Id.*)

Finally, the notice outlined the procedures to be followed in imposing the funding limitations under Section 176(a). These include a notice by letter to the state and affected political entities followed by a 30-day negotiating period, followed by a formal notice of proposed rulemaking with a 30-day comment period followed by final action. In addition to Section 176(a), Congress also added Section 316 to the Clean Air Act which allows the Administrator to withhold funds for the construction of sewage treatment works if he determines that a state does not have an approved SIP or that the approved SIP does not provide for the increased emissions resulting directly or indirectly from the operation of that facility. (Section 316(b), 42 U.S.C. 7616(b).) The policies and procedures for imposing the Section 316 limitation were published on August 11, 1980 (45 FR 53382), and will be followed in taking any action under that Section. In addition, a Section 307(d) type docket has been established for the rulemaking. The other administrative procedures provided for under Section 307(d) do not apply to this rulemaking, however, because this is not an action listed or designated by the Administrator under Section 307(d)(1). (42 U.S.C. 7607(d)(1).) Normal notice and comment procedures provided for under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, govern this action.

Facts

On March 3, 1978, EPA designated Jefferson County, Kentucky (Louisville) and three Kentucky counties, Boone, Kenton and Campbell, in the Metropolitan Cincinnati Air Quality Control Region as nonattainment for O_3 (40 FR 8962). As part of its SIP, the Commonwealth determined that despite the implementation of all reasonably

[1] In addition to a schedule and legal authority, the state must also show in its 1979 Part D SIP Revision that it is committed to implement an I/M program, has adequate resources to do so, and that the program once implemented will meet a minimum standard of effectiveness. (Sections 172(b) (2), (7) and (10), 42 U.S.C, 7502 (b) (2), (7) and (10).)

available control measures, these areas would not be able to attain the O_3 standard by the 1982 deadline. Therefore, the Governor requested an attainment date extension until December 31, 1987, and committed to the implementation of an I/M program.

The states generally had to certify the existence of I/M legal authority by July 1, 1979, the date an approved plan was required. (See 44 FR 20377, April 4, 1979.) Limited extensions to this deadline were available if the state could show that its legislature had not had a reasonable opportunity to timely consider the question of I/M authority. (*Id.*) The Commonwealth of Kentucky requested such an extension of the deadline for certifying legal authority because the state did not know if it would need an extension of the 1982 attainment date for CO and O_3 and, therefore, whether it would be required to adopt an I/M program in time for the 1978 legislative session of the General Assembly to consider an I/M bill and because the General Assembly did not meet again to consider general legislation until the 1980 session. On these grounds EPA granted Kentucky's request and conditionally approved the Kentucky Part D SIP. By June 30, 1980, a certification of I/M legal authority was due in order for this approval to remain in effect.

In the 1980 session of the General Assembly the Senate passed an I/M bill, but it was rejected in a House Committee and on April 15, 1980, the Assembly adjourned without passing any I/M legislation. In view of the Legislature's failure to pass I/M authority for the Commonwealth, the Commonwealth and the counties considered a number of alternatives, among them the possibility that the county governments for the affected areas would enact local ordinances to establish an I/M program. Although EPA has worked with the Commonwealth and the counties to develop an acceptable I/M program of their own choice, as of June 2, 1980, only Jefferson County had indicated their intention to move ahead with the program. (Jefferson County announced at that time the intention to adopt a local I/M ordinance, which now has been done. The I/M ordinance and an implementation schedule were submitted as Part D SIP revisions on September 22, 1980.)

On June 2, 1980, the Regional Administrator of Region IV sent a letter to the Governor of Kentucky informing him that because of the General Assembly's adjournment in 1980 without passing adequate I/M authority and the lack of progress in submitting other acceptable I/M legal authority, EPA could no longer consider that the Commonwealth was making reasonable efforts to provide legal authority for an I/M program.

Furthermore, the Governor was informed that pursuant to the Section 176(a) policies and procedures outlined by EPA in its April 10, 1980 notice, (45 FR 24692,) the Agency was initiating the process to cut off certain Federal funds to the counties of Boone, Kenton and Campbell by starting the 30-day negotiation period called for under these procedures. During this negotiating period Boone County was able to adopt a local I/M ordinance and this ordinance and an implementation schedule have been submitted to EPA as Part D SIP revisions. However, no progress has been made either with the Commonwealth or the remaining two counties. Because of the Commonwealth's failure to submit legal authority for the remaining two counties by the June 30, 1980 deadline, EPA published in the September 22, 1980 issue of the **Federal Register** a disapproval for the O_3 Part D SIP revision for the portion of the Cincinnati nonattainment area consisting of Boone, Kenton, and Campbell Counties, Kentucky, reimposing the moratorium on construction of major sources of those pollutants in these counties. Boone County was included because of EPA's policy (45 FR 31307, May 13, 1980) of applying the moratorium to the entire nonattainment area, even if the SIP requirements were met in a portion of the nonattainment area. EPA, however, has proposed to revise this policy (45 FR 62850, September 22, 1980), and if this revision is made final, EPA will be able to lift the construction moratorium in Boone County upon approval of the Boone County portion of the Kentucky SIP. The Boone County ordinance and I/M schedule were officially submitted as part of the Kentucky SIP on November 19, 1980.

Comments

Comments on the proposed action were received from 4 private citizens, one citizens' group, the Cincinnati Area Metropolitan Planning Organization (MPO) and representatives of the Boone, Campbell and Kenton Counties governments.

The comments of the private citizens and citizens' group supported the implementation of I/M in the Cincinnati area and EPA efforts to insure that an I/M program is implemented. Three of those commenters specifically asked that the proposed funding limitations be imposed if a program were not adopted for the Kentucky Counties.

The government and MPO commenters raised a number of objections to the proposed action. All the counties objected to the statement that the Commonwealth and counties have had adequate opportunity to consider I/M legal authority. They noted that until the General Assembly adjourned April 15, 1980, without passing state I/M legislation, the counties were not even aware they might have to enact I/M locally. However, the Commonwealth of Kentucky as a whole, including these counties, has been aware of this obligation since 1977, and has had many other opportunities to consider I/M legal authority. The fact that the counties depended on the Commonwealth to meet this obligation and, because of the Commonwealth's failure, have found it necessary to move to adopt legislation on their own, does not start the statutory timetable over for them. Even if this were not the case, Boone County's action in July 1980 has demonstrated that the counties have had sufficient time to act on their own. Campbell and Kenton Counties have not taken any positive action on I/M, and have shown no signs that they will. The potential need for I/M has been known for over three years since the Clean Air Act Amendments were passed in August 1977. The submittal of I/M when needed in the SIP was due on January 1, 1979, almost two years ago. Because the Commonwealth was given an extension to July 1, 1980, to certify legal authority, the Commonwealth had even more time to demonstrate the needed legal authority. Five months after that extended deadline, I/M legal authority still does not exist for Kenton and Campbell Counties, and there is no evidence to suggest that it will exist at any time soon. The long period of time for action, including a substantial extension and the lack of action to date, lead to the inescapable conclusion that the Commonwealth of Kentucky and the counties can no longer be considered to be making reasonable efforts.

Moreover, given the compelling nature of these facts, it is the Administrator's judgment that adequate legal authority will actually have to be adopted in order to find that the Commonwealth is making sufficient efforts to justify lifting the restrictions now being imposed.

Other commenters raised objections to the determination that the three Kentucky Counties be required to implement I/M in the first place. The main objection is the purported inaccuracy of the ozone air quality data used to establish the amount of emission reduction required. Using this data it

was found that the necessary emission reductions to meet the ambient ozone standard could not be achieved by the end of 1982. As a result, Kentucky requested an extension to 1987 to meet the standards and under Section 172b(11)(B) is required to adopt an I/M program as part of its 1979 SIP. This and various other related objections discussed below were first raised in a report prepared by a local citizen for the county governments in May 1980. This comment does not raise an issue legally relevant to today's action because the designation of those areas as nonattainment and the state's decision to request extension of the 1982 deadline are not subjects of this rulemaking.

Nevertheless, EPA has carefully reviewed the points raised in this report and found no evidence that the original data or determinations contained any significant errors.

The major points raised were:

(1) The validity of the data from the Atkinson Square monitoring site, which was used to determine the design value for hydrocarbon control. An earlier EPA sponsored study had failed to utilize this data, citing several potential problems with the monitor location. A review of this data showed that it was doubtful that the location problems actually caused any error in the ozone readings and that even if there were any errors, they probably caused measured concentrations to be lower than the actual ozone levels.

(2) The sensitivity of the modeling used to determine the hydrocarbon reductions required. EPA's review found that various input data and assumptions did have some effect on the final results. However, the only data to which the model is extremely sensitive are those related to the hydrocarbon/oxides of nitrogen ratio, and in the Cincinnati case, the most optimistic data were used. Thus, if there were any errors, they would likely underestimate the amount of control required.

A detailed response to the points raised in the report was provided to the local officials on August 8, 1980. The response can be found in the docket to the rulemaking.

Some of the commenters asked that a detailed analysis of the May 1980 report be provided. EPA believes that all significant points raised in the report were answered in the August 8 review. Alternatively, the commenters requested a complete reanalysis of all the air quality data. As mentioned above, we have found no significant errors in the Commonwealth's original analysis in the SIP. In addition, a complete reanalysis using the most recent data will be conducted by the Commonwealth as part of the 1982 SIP revisions. For those reasons, we feel no useful purpose would be served by reanalyzing the original data at this time.

Questions were also raised concerning the boundaries of the nonattainment area. Specifically, Kenton County asked that it be dropped from the nonattainment area because the monitoring data in the county had not detected violations of the ozone standard. Ozone is not generated directly, but rather is formed by the reaction of hydrocarbon and nitrogen oxides emissions in the presence of sunlight. Because the reaction may take place at some distance from the point of emissions, areawide control of the precursor emissions is necessary to control ozone. EPA policy is to include in the ozone nonattainment area all the urbanized counties within the metropolitan urbanized area (the determination of whether a county is urbanized is made using a Census Bureau definition which uses such factors as population density). The entire urbanized area is included because all emissions from this area affect the overall nonattainment problem, even if the ozone values in a particular country are not as high as those recorded in other parts of the metropolitan area. Meteorological and other influences may cause some variation throughout a metropolitan area, but the emissions from all counties in the metropolitan area do affect the overall problem. For example, approximately 16% of the vehicle miles traveled, and thus a similar proportion of motor vehicle emissions in the Cincinnati area, are generated in the three Kentucky counties of which Kenton is the largest. Therefore, Kenton County and the other two counties make a significant contribution to the Cincinnati ozone problem. For this reason, we feel Kenton County should properly be included in the nonattainment area and thus be required to implement I/M.

One commentor stressed that if the Kentucky counties were required to have I/M, then Dearborn County, Indiana should also, since it is part of the Cincinnati Metropolitan area and since ozone violations were monitored there in 1975. However, no part of Dearborn County is within the Cincinnati urbanized area and thus under EPA policy and need not be included in the urban nonattainment area. Counties outside the urbanized area generally do not contribute significantly to the ozone problem because of their low population size and density and separation from the urbanized area. Most ozone violations in such areas are due to transport from neighboring urbanized areas. Boone, Campbell, and Kenton County emissions are concentrated in an area within the urbanized area. In addition, the vehicle emissions from these three counties account for about 16% of the nine-county regional total, while Dearborn County's contribution is less than 2%. For these reasons, we do not feel that the contribution of Dearborn County to the Cincinnati ozone problem is large enough to warrant the imposition of I/M in that county. However, as explained earlier, we feel the Kentucky Counties do contribute significantly and that I/M is needed.

Given the ozone data cited for Dearborn County, EPA will consider that comment a request for redesignation of Dearborn County. We note, however, that even if it were redesignated from its current "unclassified status", it could be to "rural nonattainment" rather than "urban nonattainment." Rural nonattainment areas do not require I/M. With respect to Kenton County's designation as urban nonattainment, for the reasons cited above we feel that the current designation is appropriate.

Another issue raised was the cost effectiveness of the I/M program. Congress addressed this issue in the 1977 Amendments to the Act, and after closely examining all aspects of an I/M program, Congress found the program to be reasonable both in effectiveness and cost. (H.R. Rep. No. 95–294, *supra* at 230 281–291; S. Rep. No. 95–127, *supra* at 40.) The House of Representatives' Report on its 1977 Amendments to the Act states: "In the light of all these factors, the Committee found that vehicle inspection and maintenance programs would be cost-effective measures for reducing air pollution in highly polluted urban areas, particularly when compared to many other more disruptive strategies." (*Id.* at 286.) Based on these conclusions Congress made I/M a mandatory measure for all areas with serious automobile-related air pollution problems. (Section 172(b)(11)(B).)

Information generated by the implementation of I/M programs since the 1977 Amendments confirmed that Congress' conclusions on the cost-effectiveness of I/M were correct. I/M has been persuasively shown to be an effective air pollution control strategy. For example, in Portland, Oregon an ongoing study of that city's I/M program indicates that on a fleet-wide annualized basis, Portland has experienced a 20% reduction in motor vehicle hydrocarbon emission levels and

a 36% reduction in carbon monoxide emission levels due to I/M alone. The reduction in hydrocarbon emissions from automobiles due to I/M noted above results in a general reduction in the ambient level of ozone as well because hydrocarbons are the prime contributors to ozone generation.

Moreover, figures to date show that the costs of an I/M program are reasonable. Inspection fees for existing I/M programs vary considerably, from a low of $2.50 in New Jersey to a high of $11.00 in California's South Coast program (plus $7.00 for those vehicles needing retest). These fees cannot be considered excessive, especially considering that they generally cover all the costs of the program, including administration, operation and enforcement. Additional repair costs may be incurred should the vehicle fail the inspection tests and repairs be required. However, the average cost of such repairs ranges from $18 to $35. These costs are incurred only by those cars failing the test. Other cars incur no expense beyond the inspection fee. Common causes of failures include improper carburetor idle adjustment, worn-out spark plugs, defective ignition wires, or improper spark timing. Most failures, though, result from improper maintenance and can be corrected with simply a tune-up. To mitigate the financial burden on any individual states may provide waivers over specific cost limits.

Costs of the I/M program must be balanced against its benefits which include not only the direct impact on the public health, but the reduction in health care costs associated with air quality improvements, and any fuel savings resulting from I/M adjustments.

A final point that was raised was that the program would be ineffective without the ability to tie enforcement of the program to auto registration. At present, enforcement through the use of window stickers would have to be used because the state has not authorized denial of registration based on failure to have an emission inspection performed. Such a provision would obviously be preferable and Governor Brown of Kentucky has promised to seek such authority in the next session of the General Assembly. Even if enforcement through registration is not authorized, EPA believes sticker enforcement can be made workable if a mechanism with appropriate safeguards and procedures is developed and adequate resources are allocated.

EPA Findings

For Kenton and Campbell Counties the Commonwealth has failed to submit a Part D SIP revision that includes a certification of I/M legal authority. As explained above, Section 172(b)(10) requires such a certification for these counties and lack of such certification means that a critical element of Section 172 has not been considered. Therefore, the agency hereby finds that for these two counties, the Commonwealth of Kentucky has not submitted a Part D SIP revision that considers each of the required elements of Section 172.

Moreover, EPA believes that the Commonwealth is no longer making reasonable efforts to submit plans for these two counties that consider each of the Section 172 elements. The Kentucky General Assembly and the counties have had adequate opportunity to consider and adopt the needed I/M legal authority. Furthermore, there is no evidence that either the Commonwealth or counties are making any effort to adopt I/M legal authority. This fact, plus the continuing health threat posed by the nonattainment problem in these counties, prompts EPA to find that the Commonwealth is no longer making reasonable efforts to submit an acceptable Part D SIP revision. This finding requires the imposition of funding limitations under section 176(a).

In view of the above facts, the Administrator also finds that for Campbell and Kenton Counties, Kentucky does not now have an approved SIP for the purposes of Section 316(b) of the Clean Air Act.

EPA will limit the effects of the above findings to Kenton and Campbell Counties only. Jefferson and Boone Counties have enacted I/M ordinances on their own. Jefferson County's I/M ordinance and implementation schedules were submitted on September 22, 1980, and the same material for Boone County was submitted to EPA on November 19, 1980. Therefore, EPA believes it would be inequitable and inappropriate to restrict Federal funds in these areas.

Responsibility for legal authority for I/M in the Ohio portion of the Cincinnati AQCR lies with the State of Ohio and will be addressed in a future Federal Register notice.

Effect of Rulemaking

EPA finalizes in this notice the limitations on certain types of Federal assistance in the counties previously mentioned. The Federal Highway Administration will not approve any projects or award any grants under the Surface Transportation Assistance Act (23 U.S.C. 101 *et seq.*) except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. See the Section 176(a) policy (45 FR 24692) for guidelines for these exemptions. It is estimated that this restriction will affect approximately $34.5 million of funding to the affected areas during Federal Government Fiscal Years 1981 and 1982 (FY 81 and 82).

Also protentially affected will be the award of certain air grants authorized under the Clean Air Act (42 U.S.C. 7401 *et seq.*), including Section 105 and Section 175 grants, to local air quality control districts and lead air quality planning agencies. These funds amount to approximately $300,000 in the affected areas during FY 81. Under the Agency's Section 176(a) policies and procedures, however, the Administrator has discretion to continue to award air grants if such awards are necessary for achieving immediate air quality benefits or for SIP development.

Finally EPA will also withhold grants for the construction of sewage treatment works available under Section 201(g) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) to municipalities, sanitation districts, or other eligible grantee located in the affected counties. The EPA Regional Administrator may fund a specific project is she finds that it is needed for relief of an immediate public health hazard and will not expand usable treatment capacity by more than one million gallons per day. In addition, the EPA Regional Administrator may fund a project which will not expand capacity for future growth. These funding limitations could amount to approximately $1.5 million during FY 81. The only project covered is the rehabilitation of an existing treatment plant and, as such, it may be eligible for funding. However, any projects in future years may be subject to these funding limitations. (23 U.S.C. 118(b); 33 U.S.C. 1285(d); and 45 FR 24696 (April 10, 1980).)

In order to remove the limitations on Federal assistance, EPA must publish a Notice of Proposed Rulemaking in the Federal Register and allow for a 30-day public comment period regarding such action. After evaluation of public comments, if EPA decides to remove the limitations, EPA must publish a Notice of Final Rulemaking which authorizes rescission of the Federal assistance limitations. The limitations, however, will remain in effect until publication of the Notice of Final Rulemaking.

EPA has determined that this action is "specialized" and, therefore, not subject to the procedural requirements of Executive Order 12044. Under Section 307(b)(1) of the Clean Air Act judicial review of this final agency action is available *only* by the filing of a petition for review in the United States Court of

Appeals for the appropriate circuit within 60 days of date of publication of this notice in the Federal Register. Also the findings that are the subject of today's notice may not be challenged in an administrative or judicial proceeding concerning the withholding, denial, or restricting or conditioning of any individual grant of funds pursuant to today's action.

This action is being made immediately effective, as provided in the joint EPA/DOT Section 176(a) policy and procedure memorandum. (45 FR 24692, 24696, April 10, 1980). Also, EPA finds that good cause exists for making this action immediately effective: (1) because of the serious public health needs it is intended to address; (2) because the public has already had more than ample opportunity to comment on today's action, and (3) to avoid dilution of the purpose of this rulemaking by the issuance of grants before the effective date.

(Secs. 110, 172, 176(a), 301, and 316 of the Clean Air Act (42 U.S.C. 7410, 7502, 7506(a), 7601(a), and 7616))

Dated: December 5, 1980.

Douglas Costle,

Administrator.

[FR Doc. 80-38332 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-26-M

---

40 CFR Part 123

[SW-8-FRC 1700-1]

Utah; Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Issuance of phase I interim authorization of state program.

SUMMARY: The purpose of this notice is to grant Phase I Interim Authorization to the State of Utah for its Hazardous Waste Management Program.

In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which became effective 6 months after promulgation, were provisions for a transitional stage in which a state can be granted interim authorization to operate its Hazardous Waste Management Program in lieu of the Federal program. The Interim Authorization Program will be implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

In order to qualify for Interim Authorization, a State Hazardous Waste Program (1) must have been in existence prior to August 17, 1980, and (2) be "substantially equivalent" to the Federal program. A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33475).

On September 16, 1980, the State of Utah applied to EPA for Phase I interim authorization of its Hazardous Waste Management Program. On October 17, 1980, EPA issued in the Federal Register a notice of the public comment period on the State's application. All comments received during this period have been noted and considered, as discussed below.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Schroeder, Waste Management Branch, U.S. EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221.

SUPPLEMENTARY INFORMATION: The State of Utah submitted its final application for Phase I interim authorization on September 16, 1980. After reviewing the document, EPA identified several areas of concern, namely:

I. Program Description

Resources and tasks—The Resource Guidance Statement was incomplete and needed to be expanded.

II. Memorandum of Agreement (MOA)

1. The State provided for a 60-day grace period prior to the termination of the program under the Memorandum of Agreement. EPA regulations do not allow a 60-day grace period for the termination of a program.

2. State annual and quarterly reports, as discussed on Page 5 of the MOA needed to cover transporters as well as generators and facilities.

3. The MOA required 7 days notice before EPA could conduct any compliance inspection. This violated 40 CFR 123.126.

4. The "enforcement action" section, as originally proposed, stated "consistent with section 3006(b) of RCRA, prior to taking any enforcement action EPA will afford the State the opportunity to pursue a State enforcement action in lieu of EPA taking the enforcement actions." This improperly limited EPA enforcement authority.

III. Attorney General's Statement

1. The Attorney General needed to certify that the State has the authority to sue in courts of competent jurisdiction to enjoin any threatened or continued violation of any program requirement. This had not been addressed by the State, although the State appears to have this authority.

2. If the Attorney General is to bring enforcement actions in the name of the State, the Attorney General, not the State agency, must provide the assurances required by 40 CFR 123.128(f)(2)(ii)(B) and (C).

3. The Attorney General's Statement had been signed by an Assistant Attorney General. The Attorney General must sign the Statement or provide a copy of some statute, case law or written delegation which demonstrates that the Assistant Attorney General's signature has the same force and effect as that of the Attorney General.

These concerns have been adequately addressed as follows:

I. Program Description

The State has submitted a complete resource guidance statement for Phase I including resource levels and mixture of resources.

II. Memorandum of Agreement (MOA)

1. The 60-day period has been removed from the MOA.

2. Transporters have been added to the appropriate sections of the MOA.

3. The MOA has been modified to bring it into compliance by adding the word "normally" and other wording consistent with 40 CFR 123.126.

4. The Enforcement Actions section (II,D,2) of the MOA has been changed to allow enforcement action by the State or by EPA after determining that State has not taken timely and appropriate action.

III. Attorney General's Statement (AGS)

1. Section VI of the AGS specifies that Utah has authority to sue in courts of competent jurisdiction to enjoin any threatened or continued violation of any program requirement.

2. With respect to the assurances required by 40 CFR 123.128(f)(2)(ii)(B) and (C), the Attorney General brings enforcement action on behalf of the State agency. The Hazardous Waste Committee has agreed to and committed by regulation that it will not oppose citizen intervention where permissive intervention is authorized and will publish and provide 30 days for public comment on settlement actions. The Attorney General's Office is subject to these constraints because of that Office's relationship to the agency. (See

Utah General's opinion—80-181. Section VIII).

3. The AGS has been signed by both the Attorney General and Assistant Attorney General.

The complete application now meets all of the requirements for Phase I Interim Authorization contained in 40 CFR Part 123. The State's program meets all of the requirements in 40 CFR 123.128, and 123.130-132. The Authorization Plan submitted with the complete application specifies with sufficient detail the actions the State will take to seek and obtain Phase I Final Authorization. The Attorney General's Statement certifies (1) that the laws of the State of Utah provide adequate authority to carry out the program described in the application; (2) that the enabling legislation for Phase I was in existence within 90 days of the promulgation of Phase I regulations; (3) and that the authorization plan, if carried out, would provide the State with enabling authority and regulations adequate to meet all of the requirements for final authroization. Finally, the Memorandum of Agreement meets the requirements of 40 CFR 123.126.

For the foregoing reasons, I have determined that Utah qualifies for Phase I Interim Authorization.

The State of Utah is hereby granted, Phase I Interim Authorization to operate its Hazardous Waste Management Program in lieu of Phase I of the Federal RCRA Subtitle C Hazardous Waste Management Program in accordance with Section 3006(c) of RCRA, implementing regulations found in 40 CFR Part 123 Subpart F and EPA Delegation 8-7.

As noticed in the Federal Register on October 17, 1980, EPA gave the public until November 14, 1980, to comment on the State's application. EPA also held a public hearing in Salt Lake City, Utah on October 14, 1980. Twenty-one people including six from the regulated community attended the hearing. No comments were received for this record.

Dated: December 3, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-38584 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-30-M

---

40 CFR Part 123

[SW-8-FRL 1700-2]

North Dakota; State Hazardous Waste Management Program; Phase I Interim Authorization

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Approval of State program.

SUMMARY: The purpose of this notice is to grant RCRA Phase I Interim Authorization to the State of North Dakota for its Hazardous Waste Management Program. EPA is not, at this time, granting North Dakota interim authorization to implement a manifest system or to implement generator and transporter requirements. North Dakota requirements for hazardous waste management facilities now supersede the Federal RCRA requirements for such facilities, but all Federal requirements applicable to generators and transporters, and all Federal manifest requirements continue to apply in North Dakota and the Environmental Protection Agency (EPA) retains the enforcement responsibility for this portion of the program.

In the May 19, 1980, Federal Register (45 FR 33063), EPA promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which became effective six months after promulgation, are provisions for a transitional stage in which a state can be granted interim authorization to operate its hazardous waste management program in lieu of the Federal program. The Interim Authorization Program will be implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

In order to qualify the interim authorization, a State Hazardous waste program (1) must have been in existence prior to August 17, 1980, and (2) be "Substantially equivalent" to the Federal program. A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479).

On October 1, 1980, the State of North Dakota applied to EPA for Phase I Interim Authorization of its hazardous waste management program. On October 17, 1980, EPA issued in the Federal Register (45 FR 68980) a notice of the public comment period on the State's application. All comments received during this period have been noted and considered, as discussed below.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Rolland Lech, Solid Waste Branch, U.S. EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-2221.

SUPPLEMENTARY INFORMATION: The State of North Dakota submitted its draft application for Phase I interim authorization on August 8, 1980, and its final application on October 1, 1980. After reviewing these documents, EPA identified five major problem areas: (1) it was not clear from the application that the State, through its implementing regulations, controlled a specific universe of hazardous wastes that could be judged nearly identical to that which would be controlled by the Federal program under 40 CFR Part 261; (2) North Dakota did not have statutory authority to set standards for generators and transporters; (3) the State lacked authority to regulate storage and/or treatment facilities; (4) the State did not have standards for regulation of disposal facilities that were substantially equivalent to the RCRA Interim Status Standards for facilities; (5) the State had not provided assurance for citizen participation in civil actions.

On September 17, 1980, EPA representatives met with the State and discussed the deficiencies in the application. The State agreed to make certain changes to remedy the deficiencies. On October 1, 1980, the State submitted its final application. Because the final application did not adequately address all of the deficiencies, the State later submitted additional information to satisfy EPA's concerns.

A notice of public hearing was published in the State's eight major newspapers 30 days prior to the hearing. A Federal Register Notice announcing the hearing was published on October 17, 1980 (45 CFR 68480) and the public hearing was held on November 14, 1980. The public comment period was extended until November 17, 1980 to allow for a full 30-day comment period after printing the notice in the October 17 Federal Register. The supplemental information submitted by the State was made available at the hearing.

One letter of comment was received prior to the public hearing. All comments received prior to, and at the hearing, supported North Dakota's application for Interim Authorization for Phase I activities. Commenters cited the close working relationship between industry and the State and the sensitivity of State officials to local concerns as justification for Interim Authorization. One commenter representing the State Department of Motor Vehicles requested modification of the State's program to avoid duplicative regulation of the transportation of hazardous waste. The State is not, at this time, receiving

interim authorization to regulate transportation of hazardous wastes. This issue will be addressed at a later date, when North Dakota applies for interim authorization to regulate transporters.

EPA has reviewed North Dakota's application and considered the comments provided during the public hearing. The deficiencies in the application have been remedied as described below:

The State Department of Health issued an Administrative Order on November 12, 1980 indicating that all hazardous wastes identified in 40 CFR Part 261 are subject to regulation by the State. Thus, the universe of waste regulated by North Dakota includes all wastes that would be controlled by the Federal program.

The State does not now have authority to regulate generators and transporters or to operate a manifest system. Under 40 CFR 123.128(d) the State may be granted interim authorization if the State authorization plan contains the necessary steps for obtaining this authority by the end of the interim authorization period. North Dakota's authorization plan contains steps for receiving interim authorization for generator and transporter requirements and to operate a manifest system. The Memorandum of Agreement has been revised to acknowledge that North Dakota Interim Authorization, Phase I, does not include authority for the State to operate a manifest system or to enforce generator or transporter requirements. All generators and transporters in North Dakota must comply with the Federal requirements in 40 CFR Parts 262, 263 and the manifest requirements in 40 CFR Part 265, Subpart E, until the State receives authorization for this portion of the program.

The State has certified that no storage or treatment facilities exist in the State. Therefore, despite the fact that the State does not have authority to regulate storage or treatment facilities, the State may receive interim authorization under 40 CFR 123.128. The State authorization plan provides for development of a complete program as soon as practicable.

The Administrative Order issued by the Department of Health on November 12, 1980, indicates that all permits issued by the Department for disposal facilities will include standards substantially equivalent to the Interim Status Standards of 40 CFR Part 265.

The State has revised the Memorandum of Agreement to indicate that the State will not grant variances from State laws or regulations that would conflict with any requirements or standards necessary for interim authorization.

The State has also revised the Memorandum of Agreement to meet the requirements of 40 CFR 123.128(f)(2) (i) and (ii) by providing for adequate public participation in enforcement actions.

The complete application now meets all of the requirements for Phase I Interim Authorization contained in 40 CFR Part 123. The State's program meets all of the requirements in 40 CFR 123.128, and 123.130–132. The Authorization Plan submitted with the complete application specifies with sufficient detail the actions the State will take to seek and obtain Phase I Final Authorization. The Attorney General's Statement certifies 1) that the laws of the State of North Dakota provide adequate authority to carry out the program described in the application; 2) that the enabling legislation for Phase I was in existence within 90 days of the promulgation of Phase I regulations; 3) and that the authorization plan, if carried out, would provide the State with enabling authority and regulations adequate to meet all of the requirements for final authorization. Finally, the Memorandum of Agreement meets the requirements of 40 CFR 123.126.

For the foregoing reasons, I have determined that North Dakota qualifies for Phase I Interim Authorization.

The State of North Dakota is hereby granted Phase I Interim Authorization to operate its hazardous waste management program in lieu of Phase I of the Federal RCRA Subtitle C Hazardous Waste Management Program, except for the generator, transporter and manifest portions of the Federal program, in accordance with Section 3006(c) of RCRA, implementing regulations found in 40 CFR Part 123 Subpart F and EPA Delegation B-7. The Federal requirements for generators and transporters, contained in 40 CFR Parts 262 and 263, and the Federal manifest requirements contained in 40 CFR Part 265, Subpart E remain in effect in North Dakota.

Dated: December 3, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-38583 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-30-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Docket No. 19308; FCC 80-581]

New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule amends the regulations on the priority system for the restoration of common carrier provided intercity private line telecommunications services during emergencies. This rule includes clarification of certain matters addressed in a previous rule and provides a later effective date. The objective of the restoration priority system adopted is to improve the reliability of vital private line communications services during emergencies. The Commission will authorize common carriers to restore FCC certified private line services on a priority basis. FCC certification of restoration priorities for Federal and foreign government services will be based on recommendations from the Executive Office of the President (EOP).

EFFECTIVE DATE: March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Herbert Neumann, Emergency Communications Division, Office of Executive Director, Federal Communications Commission, Washington, D.C. 20554, (202) 632-7232.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 64 of the Commission's rules to provide for a New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service, Docket No. 19308.

Final Order

Adopted: October 8, 1980.

Released: October 23, 1980.

By the Commission: Commissioner Jones not participating.

1. On March 27, 1980 we adopted FCC Order No. 80-150 under Docket No. 19308 to amend Rules Part 64, Subpart D, Appendix A, Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services, to include provision for the assignment of priority subcategories and to provide other changes in the Restoration Priority (RP) system. The RP system is designed

to identify in which order intercity private line circuits should be restored by the communications common carriers in the event of major failure due to any type of emergency and to provide for smooth transition between peacetime and wartime requirements.

2. A Petition for Clarification was filed by GTE Telenet Communications Corporation (Telenet) and a Petition for Clarification and for Deferral of Effective Date was filed by the American Telephone and Telegraph Company (AT&T). Essentially, Telenet asked for clarification of the effect of our Order on "resale" carriers. The primary AT&T requests are that we clarify our rules to address use of public switched network circuits for restoration of private line services, make some changes in terminology, provide more specific rules concerning the authority of the FCC Engineer In Charge (EIC) during emergencies, make administrative arrangements with the Executive Office of the President (represented by the National Communications System), and defer the effective date of our Order for six months after we provide the clarifications. The six month period would be used by AT&T for development of administrative procedures and for staff training related to our Order. The new restoration priority system in Order No. 80-150 was discussed at the May 29, 1980 public meeting of the Domestic and International Common Carrier Communications Services Subcommittee of the Commission's National Industry Advisory Committee (NIAC) and essentially the same matters as in the Telenet and AT&T petitions were expressed.

3. We were persuaded that there was merit in the issues raised in the two petitions received and at the May 29, 1980 NIAC meeting and that other parties not represented at the NIAC meeting should have an opportunity to comment. Accordingly, we adopted *Order* No. 80-359 on June 30, 1980 to extend the effective date of the new RP system (FCC *Order* No. 80-150) to September 30, 1980 pending further Order and to provide a period for additional comments (no additional comments were filed).

4. We have carefully considered the petitions and comments received in Docket No. 19308 subsequent to our adopting the new priority system in *Order* No. 80-150. The Telenet request for clarification to permit assignment of RP's to "resale" circuits is appropriate and we are modifying Appendix A to include "resale" circuits. The AT&T request for a six month deferral of effective date appears reasonable and is being granted. Regarding other AT&T requests, we have determined that it is reasonable to modify the new Appendix A of Part 64, Subpart D to permit use of public switched network circuits for restoration of private line services, to use more universal terminology, to provide for easier access to an EIC during an emergency and to better define his authority.

5. Our Emergency Communications Division (ECD) staff has met with representatives of the National Communications System (NCS) concerning administrative arrangements with the Executive Office of the President (EOP) for efficient FCC certification of priorities for Federal and foreign government services. The working arrangement determined to be most practical consists of authorizing common carriers to accept assignment of priorities included in orders for government private line telecommunications services as our *interim* certification, and for the FCC restoration priority (RP) processing staff to provide final notification of certification, rejection, or change to the EOP and to each carrier involved. The FCC notification to each common carrier will include the group of priorities related to that carrier during a specific period of time. To facilitate the process, and to simplify other RP related matters, we are including a requirement for each common carrier involved to provide a single point of contact for our RP processing staff.

6. FCC Form 915, June 1980 edition, "Priority Request and Certification," is authorized, subject to General Accounting Office approval. This form may be revised to meet future administrative requirements. Use of earlier editions of Form 915 is not authorized.

7. The Commission's jurisdiction in the area of restoration priorities derives primarily from its responsibility under Sections 201(b) and 202(a) of the Communications Act of 1934, *as amended*, to assure available communications capabilities by a reasonable and nondiscriminatory allocation in the event of major facilities outages or service failures. The Commission is also "assigned" the restoration priority responsibility by Executive Order No. 11490 (October 30, 1969), 34 FR 17567, 1969 Cong. Code and Admin. News 2915.

8. This *Order* is issued pursuant to Sections 1, 4(i) and 201 through 205 of the Communications Act of 1934, *as amended*, and Executive Order No. 11490, *as amended*, and shall remain in effect until such time as the Commission amends, modifies, or revokes it, or until it is amended or superseded by the President pursuant to the powers conferred upon him by, and in accordance with, the procedures specified in Section 606 of the Communications Act.

9. It is ordered, that Federal Communications Commission *Order* 70-291 is hereby revoked, effective March 31, 1981. It is further ordered, that Appendix A of Part 64, Subpart D of the Rules is revised by substitution of the new Appendix A attached hereto.

10. It is ordered, that all restoration priorities certified under the provisions of FCC *Order* No. 70-291, by the FCC or by the EOP, that are in effect on March 31, 1981 shall continue in effect in the same manner as if they were certified under the provisions of this *Order*.

11. The Petition for Clarification filed by GTE Telenet Corporation and the Petition for Clarification and for Deferral of Effective Date filed by the American Telephone and Telegraph Company, to the extent indicated in this *Order* and revision of Appendix A are granted.

12. Each common carrier involved with RP certifications is ordered to provide, on or before March 31, 1981, the address and telephone number of a single point of contact for FCC RP processing staff use. In order to allow the communications common carriers reasonable time to establish procedures related to restoration priorities, the effective date of this *Order* is hereby established as of March 31, 1981.

13. This proceeding is hereby terminated.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

1. Appendix A of part 64 of the Rules is Revised as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

* * * * *

Appendix A—Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services

1. The Communications Act of 1934, *as amended*, assigns to the Federal Communications Commission the authority over the assignment of priorities for restoration of common carrier provided service, until such time as the applicable FCC Rules are superseded by the President's war emergency powers. This *Appendix* provides the Commission's *Order* to the

communications common carriers. Our *Order* and restoration priority instructions and procedures that the Executive Office of the President may issue for executive departments and agencies are intended to constitute a single priority system under the authority of the Commission and the authority of the President under Section 606 of the Act. Together, this *Order* and instructions and procedures of the Executive Office of the President (EOP) establish one uniform system of priorities for the restoration of vital private line services during emergency situations such as major natural or man-made disasters and emergencies involving the national defense and security.

2. This restoration priority (RP) system is intended to restore only the most essential private line communications circuits in order to increase their reliability during emergencies. In order for the RP system to be most effective during emergencies it must be incorporated into the day-to-day operating procedures of the common carriers. Therefore, this RP system shall govern the restoration of intercity private line services if these services are interrupted for any reason. If preemption is required to restore service, interruption of lower priority private line services is authorized for the purpose of restoring higher priority private line services in the order of priority set forth in this *Order*.

3. All communications common carriers are directed to honor and apply this restoration priority system. The carriers are expected to cooperate with each other in restoring service in accordance with the priorities set forth in this *Order* and are authorized to honor FCC certified priorities from each other where the intercity private line service certified involves the facilities of more than one carrier. A carrier is obligated to restore only that segment of a service that it normally carries. The following principles shall be applied in implementing this priority system:

a. Spare circuits shall be selected first to restore priority private line services. The common carriers, based on the considerations in this subparagraph and their own best judgment, shall then use either lower priority private line services of public switched network services to restore priority private line services. When it is necessary to use a private line service to restore higher priority private lines, services having lower or no priorities shall be interrupted in the inverse order of priority, starting with non-priority services. The communications common carriers shall make a reasonable effort to notify the user of the preempted service and to state the reasons for the preemption. After insuring that a sufficient number of public switched network services will remain available for public use, such facilities may be used to satisfy a requirement for restoring priority intercity private line service. Care must also be taken to insure that a minimum number of public switched network services which carry or may reasonably be expected to carry precedence traffic as provided for by FCC Order 69-1113 (47 CFR 64.402) will not be preempted.

b. As a practical matter, in restoring a priority service within a multiple channel type of facility, lower priority or non-priority services on parallel channels within the band or system may also be restored.

c. Certain common carriers, generally referred to as "resale carriers," do not provide their own transmission facilities, relying instead on circuits leased from another common carrier. Resale carriers may provide private line services that qualify for certification of restoration priorities. A user of such services may apply for restoration priority certification. In order for the priority to have practical value, it shall also apply to the underlying circuit leased by the resale carrier from another common carrier, such that the highest priority assigned to any service using the underlying circuit shall determine its restoration priority. Where practical, priority "resale" services shall be arranged to concentrate them in a minimum number of underlying circuits.

4. The priority system and procedures in this *Order* are applicable to:

a. United States intercity domestic private line services, including private line switched network services, furnished by the communications common carriers.

b. International private line services provided over circuits which are under the control of United States common carriers.

c. Foreign extension of United States international private line services to the extent of agreements between United States communications common carriers and their foreign correspondents.

d. International private line services terminating in or transiting the United States.

5. We recognize that a minimum number of operational services are needed by communications common carriers for service reactivation and maintenance purposes. These services are exempt from interruption and shall not normally be used for private line restoration.

6. Definition of terms:

a. "Government" when used alone means Federal, foreign, state, county, or municipal government agencies. Specific reference will be made whenever it is intended that intercity private line services of a particular level of government are meant; e.g., "Federal government", "foreign government", and similar elements. The term "foreign government" shall include coalitions of governments such as NATO, SEATO, OAS, UN, and associations of governments or governmental agencies such as the Pan American Union and the International Monetary Fund.

b. "Multipoint Circuit" is a connection between one of a private line user's locations and two or more other locations. Normally, all of the paths of a multipoint circuit would be assigned the same level of restoration priority.

c. "Private Line Service", as applicable to the United States communications common carriers engaged in providing domestic or international telecommunications, means the circuits provided by the carriers between intermediate intercity switches or between user and switch or between user and user for the provision of intercity service. A continuous circuit ordered from one carrier is considered a single "private line service" even when the facilities or equipment of more than one communications common carrier are used. However, when a user orders circuit segments from more than one carrier, and the user connects these segments to form continuous circuit, each segment is considered a separate "private line service."

d. "RP" is the abbreviation of "restoration priority" and signifies the level of priority assigned for restoration of a circuit.

e. "Restoration" means the reconnection of intercity private line circuits.

f. "Station" means the user location.

g. "Spare circuits" means circuits unassigned to any service (e.g., protection circuits).

7. Certification:

a. Federal and foreign government users are required to submit their requests for restoration priority assignments for their services through the EOP. With EOP concurrence, orders for telecommunications services issued to common carriers for Federal and foreign government services may include a level of priority. This priority level will serve as the EOP recommendation to the FCC and we direct carriers to implement it as an *interim* certification by the Commission. Upon review, the FCC RP processing staff will provide written notification of

confirmation, a rejection, or change to both the common carrier and the EOP.

b. All other private line users are required to provide their request for a restoration priority directly to the FCC. This information is to be filed on FCC Form 915—Priority Request and Certification—and will be used by the Commission's RP processing staff (Emergency Communications Division) in making a determination. Each request should be accompanied by a copy of an emergency communications plan or referenced to an FCC approved plan for the individual user organization or for an industry (e.g.: Aeronautical Emergency Communications System (AECS) Plan or Industrial Communications Emergency Plan (ICEP)). In addition, a recommendation from the EOP is required for each restoration priority request to the FCC that involves prearranged voluntary participation with the Federal government in emergencies. In applying for a restoration priority the user of a private line service accepts responsibility for making semi-annual appraisals of the criticality of the service, for making appraisals at the time of any change in the nature or use of the service, and for notifying the FCC promptly of discontinuation of the service or of any factors that may affect either the requirement for restoration priority or the level of priority.

c. The communications availability in areas affected by major natural or man-made emergencies may be disrupted or may prove inadequate for the conditions. Therefore, upon request by an appropriate state or local government official directly to the Commission or through the Federal government official authorized by the President to coordinate Federal assistance,[1] we may reassign the level of RP of existing circuits; with respect to new private line services required during the emergency, we will assign appropriate restoration priorities according to subparagraph 7.a. and 7.b. The FCC RP processing staff or the FCC Engineer In Charge (EIC) [2] of the area concerned may contacted for needed reassignment of RP levels and assignment of new restoration priorities. Temporary priority levels may be assigned and are not necessarily restricted to the normal requirements for each priority and subpriority level. All RP authorizations certified for an emergency shall expire as soon as the need for restoration of the specific circuits involved is reduced below the critical status.[3] Carriers are directed to accept oral certifications at all times from the RP processing staff or from an EIC or a deputy of the EIC. We intend to limit use of oral certifications primarily to declared and undeclared emergencies and will provide written confirmation of both regular and temporary RP's to the users and carriers involved.

8. We authorize four levels of restoration priority and these are divided into subpriorities. Normally, priorities may be assigned only to the "first circuit" between two user locations for a given function. Where more than one circuit is authorized a priority assignment, the second circuit will be assigned a lower priority. The following criteria shall govern qualification for priority certifications for intercity private line services.

a. *Priority 1*—Priority 1 shall be assigned to Federal and foreign government private line services and to those other government and non-government private line services which are designated for prearranged voluntary participation with the Federal government during an emergency caused by a state or threat of war. This priority applies to circuits which support national survival if attack occurs and shall include circuits used to:

(1) Disseminate or acquire critical intelligence concerning an attack on the United States;

(2) Disseminate or acquire information critical to the internal security of the United States;

(3) Conduct diplomatic negotiations critical to arresting or limiting hostilities;

(4) Execute command and control of military forces essential to defense and retaliation;

(5) Warn the population of the United States; or

(6) Maintain Federal government functions essential to national survival under attack conditions.

Subpriorities Under Priority 1 shall include—

Subpriorities 1-A through 1-F: Reserved for Federal government services.

Subpriority 1-G: Services essential to national survival and which are designated for prearranged voluntary participation with the Federal government.

b. *Priority 2*—Priority 2 shall be applicable to Federal and foreign government private line services and to other government and non-government private line services designated for prearranged voluntary participation with the Federal government during a national defense emergency.

Services in this category shall be limited to those essential when attack threatens, in order to minimize serious danger of—

(1) Significantly reducing the preparedness of our defense and retaliatory forces;

(2) Limiting our ability to conduct critical preattack diplomatic negotiations to reduce or limit the threat of war;

(3) Interfering with the effective direction of the nation's population in the interest of civil defense;

(4) Weakening our capability to accomplish critical national internal security and intelligence functions; or,

(5) Inhibiting our ability to conduct essential Federal government activities necessary to meet a pre-attack situation.

Subpriorities Under Priority 2 shall include—

Subpriorities 2-A through 2-C: Reserved for Federal government services.

Subpriority 2-D: Services essential for air traffic control and air operational control of military and civil air support operations.

Subpriority 2-E: Weather communications between major reporting and/or collecting agencies regarding national defense.

Subpriority 2-F: Services for the direction of the U.S. population in the interest of civil defense, survival, and essential Federal government and state government functions.

Subpriority 2-G: Civil/military relocation headquarters communications.

c. *Priority 3*—Priority 3 shall be applicable to all levels of Government and non-government services which require restoration in order to maintain our defense posture, our diplomatic posture, and the health and safety of our population during a major disaster, during a period of heightened possibility of hostilities, or during other situations when an interruption would cause loss or serious damage to vital on-going operations.

Subpriorities Under Priority 3 shall include—

Subpriority 3-A:

The first circuit used to gather and

[1] The authority of the President to provide disaster preparedness assistance. (Disaster Relief Act of 1974, Pub. L. 93-288; 99 Stat. 143, Title II, Sec. 201(a)) was delegated to the Director of the Federal Emergency Management Agency by Executive Order 12148 of July 20, 1979. We note also that under the Civil Defense Act of January 12, 1951 (c. 1228, 64 Stat. 1245, 50 U.S.C. App. 2281(h) (1979 Supp.)) the President is authorized to "procure by condemnation or otherwise" telecommunications facilities.

[2] The EIC should be contacted if the RP processing staff cannot be reached in time to assist in the emergency. When an emergency situation occurs outside of usual office hours the EIC or a deputy can be reached through the appropriate Monitoring Station. The thirteen Monitoring Stations operated by the FCC Field Operations Bureau are manned at all times. The EIC's and Monitoring Stations are listed in the FCC Telephone Directory.

[3] Normally a "state of emergency" will have been declared by the Governor of the affected state, or by the President. In such circumstances when this state of emergency terminates, the RP's authorized as a result of it will automatically terminate also.

disseminate essential intelligence information for activities not supported by circuits assigned a higher RP;
The first circuit for critical logistical and administrative military support functions;
The first circuit for air, sea or ground operations required for safety of life, rescue operations, and movement operations;
The first circuit required to maintain essential public utility services;
The first essential weather circuit between major reporting and/or collecting agencies and using locations not supported by circuits assigned a higher RP;
Additional circuits essential to other requirements for the control of civil and/or military air traffic;
The first circuit used for tracking and telemetering of information from space vehicles and primary circuits required for manned space flight operation.

Subpriority 3–B:
The first circuit to provide for critical damage assessment functions;
Essential circuits to diplomatic posts;
The first circuit between major law enforcement organizations which is essential for maintenance of law and order and which is not supported by a circuit with a higher RP;
The first circuit to ensure continuity of other critical government operations not supported by a circuit with a higher RP.

Subpriority 3–C:
The first circuit required to arrange for distribution of essential foods and other supplies critical to health;
The first circuit required to provide for hospitalization;
The second circuit, where essential, for guaranteeing civil alert and direction in the interest of civil defense and survival.

d. *Priority 4*—Priority 4 shall be applicable to those private line services, used by any level of government and by non-government entities, that are required to maintain the public welfare and our national economic posture during emergencies. Services in this priority shall be limited to those needed for continuing or reestablishing our more important financial, economic, health, and safety activities. This category will not be sub-categorized but all certifications will be identified as 4–A for the purpose of record keeping.

e. Other services supported by an emergency communications plan approved by the FCC may be assigned restoration priorities at appropriate levels.

9. United States communications common carriers should endeavor to make agreements with their foreign correspondents to effect the restoration of private line services in accordance with this *Order*. If such agreements do not exist, the U.S. common carriers should handle service restoration in accordance with any system acceptable to their foreign correspondents which comes closest to meeting the procedures established in this *Order*.

10. Applications for restoration priority certifications for private line service of all users, except Federal and foreign government, should be submitted in triplicate to: Federal Communications Commission, Office of Executive Director, Emergency Communications Division, Room A–201, Washington, D.C. 20554.

FCC Form 915 (June 1980 edition) shall be used and must be certified by an authorized official of the user organization. Use of earlier editions of Form 915 is not authorized. The Commission will certify or deny Form 915 applications (and may rescind certifications) and notify both the applicant and the common carrier by mail. Arrangements may also be made for verbal requests and certifications of restoration priorities.

11. The Federal Communications Commission will certify a restoration priority for a term of three years. Users shall resubmit their priority requirements on FCC Form 915 at least 60 days before expiration.

12. Requests for restoration priority assignments which are denied by the Federal Communications Commission may be resubmitted for reconsideration after 90 days. In the event that requirements for the denied priority have changed, the waiting period may be waived.

13. The Commission may periodically review restoration priority certifications and, if in the opinion of the Commission the restoration priority certification is no longer warranted, it may be rescinded upon written notice to the user and common carrier. The cooperation of users and common carriers will be required to determine the accuracy of certification records. We are continuing the existing requirement that non-government assignees of RP's make appraisals of the criticality of RP certifications semiannually and at the time of any change in the nature or use of the services. We require prompt written notice of any factors that may affect either the requirement for an RP or the priority level.

14. This *Order* is issued pursuant to Sections 1, 4(i) and 201 through 205 of the Communications Act of 1934, *as amended*, and Executive Order No. 11490, *as amended*, and shall remain in effect until such time as the Commission amends, modifies, or revokes it, or until it is superseded by the President pursuant to the powers conferred upon him by, and in accordance with, the procedures specified in Section 606 of the Communications Act.

* * * * *

[FR Doc. 80-38392 Filed 12-11-80; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits; FEHB Survivor Annuitant Coverage

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of personnel Management proposes to amend the Federal Employees Health Benefits (FEHB) regulations to permit the reinstatement or continuation of a survivor annuitant's health benefits coverage if the survivor annuitant remarries and subsequently becomes entitled to and elects to receive another survivor annuity based on the Federal service of the later spouse. Under existing regulations, there is no opportunity for a survivor annuitant who may wish to elect the higher of two survivor annuities to retain the health benefits coverage best suited to his or her immediate needs.

DATE: Comments must be received on or before February 10, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: John Ray, Issuances and Instructions Staff, (202) 632-4684.

SUPPLEMENTARY INFORMATION: Section 8905(b) of title 5, United States Code, provides that the Office of Personnel Management may prescribe by regulations the conditions under which a survivor annuitant may continue his or her health benefits enrollment. Under existing regulations, there is no opportunity for a survivor annuitant who may wish to elect the higher of two survivor annuities to retain the health benefits coverage best suited to his or her immediate needs. Frequently, the higher survivor annuity provides no FEHB Program coverage. If the survivor annuitant needs the benefits provided by the plan available only through the other, lower survivor annuity, he or she suffers an income loss in order to continue the health benefits protection.

The following proposed addition to the regulations is offered to correct an existing inequity in the area of health benefits coverage when a survivor annuitant must elect between two survivor annuities.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

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

Accordingly, the Office of Personnel Management proposes to amend 5 CFR 890.301 by adding a new paragraph (w) as set forth below:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(w) *Election between survivor annuities.* A surviving spouse, irrespective of whether his or her survivor annuity continued or was terminated upon remarriage, who was covered by a health benefits enrollment under this part immediately before his or her remarriage, may elect to continue a health benefits enrollment under this part acquired by virtue of the remarriage or to enroll in his or her own right in the plan under which he or she was previously covered under this within 60 days after the termination of the remarriage and entitlement to a survivor annuity.

(5 U.S.C. 8905(b))

[FR Doc. 80-38675 Filed 12-11-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Parts 312 and 316

Official Marking Devices for Imported Products; Use of Hexagon-Shaped Brands for Imported Horsemeat and Other Equines

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule

SUMMARY: This proposed rule would amend the Federal meat inspection regulations to require a hexagon-shaped brand to be used to apply the official import inspection legend on horsemeat and other equine meat products in order to identify such as imported, inspected and passed. It would also require official import inspection establishments to furnish official marking devices used in their establishments, rather than have the devices furnished by the Meat and Poultry Inspection Program Food Safety and Quality Service.

DATE: Comments must be received on or before February 10, 1981.

ADDRESS: Written comments should be sent to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Building, Washington, D.C. 20250. (For additional information on comments, see Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. James K. Payne, Acting Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Coordination Division and should bear reference to the date and page number of this issue of the Federal Register. All comments submitted pursuant to this proposal will be made available for public inspection in the Office of the

Regulations Coordination Division during regular business hours.

Background

Pursuant to the Federal Meat Inspection Act, the Food Safety and Quality Service (FSQS) is responsible for inspecting meat and meat food products and taking other actions designed to assure that such products, when distributed to the consumer, are wholesome, not adulterated, and properly marked, labeled, and packaged.

1. Need for New Import Inspection Mark for Equine Products

Section 312.3 of the Federal meat inspection regulations (9 CFR 312.3) requires that a hexagon-shaped official inspection legend be used at official establishments to identify inspected and passed carcasses, parts of carcasses, and meat food products of horses, mules or other equines. Section 312.2 of the Federal meat inspection regulations (9 CFR 312.2) requires a circle-shaped offical inspection legend be applied at official establishments to inspected and passed carcasses, parts of carcasses, and meat food products of cattle, sheep, swine and goats. These different markings are used in order to assure that horsemeat and horsemeat food products and the meat and meat food products from mules and other equines are easily distinguished from those products derived from cattle, sheep, swine, and goats.

However, currently § 312.7 of the Federal meat inspection regulations (9 CFR 312.7) only requires the circle-shaped marks to be used at establishments on imported meat and meat food products regardless of the source (species) of the meat and meat food product. Consequently, the source (species) of the imported meat and meat food products is not easily distinguished. The inability to distinguish the species of imported meat and meat food products may result in the substitution or other misuse of horse, mule or other equine meat and meat food products for that of other species. This could be avoided by the use of a distinctive offical import inspection mark for horse or other equine meat and meat food products. Therefore, this proposed rule would require that a hexagon-shaped brand be used to apply the official import inspection mark on federally inspected and passed imported horsemeat and other equine meat products.

2. Furnished Official Marking Devices

Prior to the amendment of the Federal meat inspection regulations on October 17, 1972, import inspections were performed at various locations within a port area. Up until that time, the official import inspection mark identified only the port city and was furnished by the Federal Meat and Poultry Inspection Program. The Federal meat inspection regulations subsequently required import inspections to be performed at official establishment or official import inspection establishments. Since each import inspection estalishment is now assigned a unique number identifying the particular location, each establishment should assume the same resposibilities as other official establishments, including purchasing its own brands. Therefore, this proposal would also require official import estalishments to furnish official marking devices used at their establishments.

Two options concerning these proposed amendments to the present Federal meat inspection regulations were considered. Option I would retain the current regulations. This would avoid disrupting present import inspection procedures and spare operators of official import inspection establishments the cost of the marking devices. However, the inconsistency in the regulations which does not require imported horsemeat and other equine meat products to be distinguished by use of a different shaped brand, would remain. The potential for misuse of imported horsemeat would still exist since the circular inspection legend is used instead of the distinctive hexagonal legend. FSQS would continue to pay the cost of import brands, thus slightly favoring, financially, establishments handling imported products over those handling domestically produced products.

Option II would amend the regulations to require a distinctive hexagon-shaped import brand to be used to apply the inspection legend to imported horsemeat and other equine meat products and require official import inspection establishments to furnish their own official marking devices. This option eliminates the inconsistency in the regulations. It would also offer an additional safeguard against the possible misuse of imported horse meat and other equine meat. The Agency would realize a monetary savings by no longer having to furnish brands to these establishments. Option II was chosen for reasons previously stated.

In consideration of the foregoing, the Federal meat inspection regulations (9 CFR Parts 312 and 316) would be revised to read as follows:

1. Section 312.7 (a), (b), and (d) (9 CFR 312.7 (a), (b), and (d)) would be admended to read as follows:

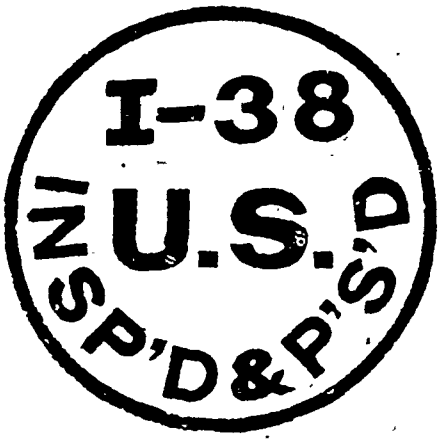
§ 312.7 Official import inspection marks and devices.

(a) When import inspections are performed in official import inspection establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be in the appropriate form [1] as hereinafter specified:

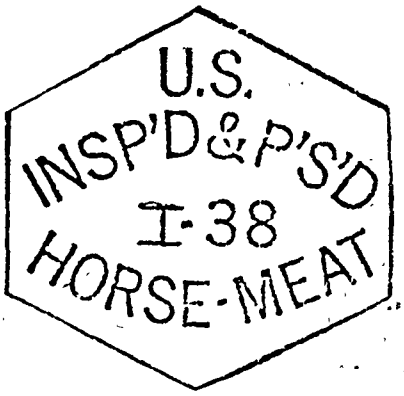
BILLING CODE 3410-DM-M

[1] The number "I-38" is given as an example only. The establishment number of the official import inspection establishment where the imported product is inspected shall be used in lieu thereof.

For application to cattle, sheep, swine, and goat carcasses, primal parts, and cuts, not in containers.

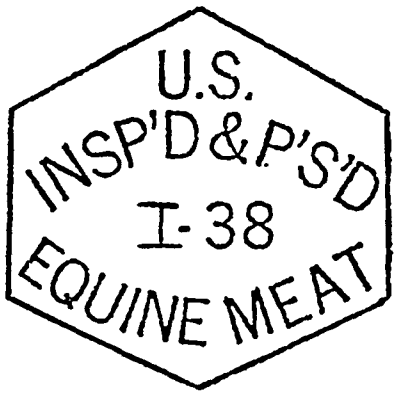


For application to outside containers of meat and meat food products prepared from cattle, sheep, swine, and goats.

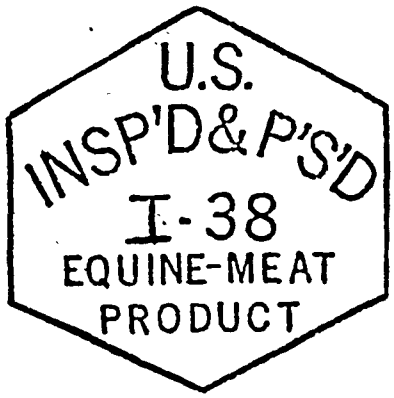


For application to horse carcasses, primal parts, and cuts, not in containers.

For application to outside containers of horsemeat food products.



For application to mule and other (nonhorse) equine carcasses, primal parts, and cuts, not in containers.



For application to outside containers of equine meat food products.

(b) When import inspections are performed in official establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products, shall be the appropriate form as specified in § 312.2 and 312.3 of this Part.

* * * * *

(d) Devices for applying "United States Refused Entry" marks shall be furnished to Program inspectors by the Department.

2. Section 316.4(a) (9 CFR 316.4(a)) would be amended to read as follows:

§ 316.4 Marking devices; to be furnished by official establishments; control of.

(a) The operator of each official establishment or official import inspection establishment shall furnish such ink brands, burning brands, and any other device for marking products with official marks as the Administrator may determine is necessary for marking products at such establishment. The official inspection legend on such a device shall be as prescribed in Part 312 of this subchapter.

* * * * *

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on December 9, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-38649 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 689

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

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor (DOL) proposes to clarify requirements imposed upon public agencies which are not prime sponsors to become eligible for grant awards to operate programs for migrant and other seasonally employed farmworkers under CETA section 303 of the Comprehensive Employment and Training Act (CETA). The proposed rule also clarifies the eligibility requirements for public agencies which are prime sponsors and which propose to operate CETA section 303 programs in other prime sponsors' jurisdictions. The purpose of the proposal is to clarify that such agencies may receive funds from the Department of Labor to operate CETA section 303 programs if they receive the written concurrence of the prime sponsors in the areas in which they propose to operate programs. In addition, the proposed rule makes clear that a public agency or CETA prime sponsor need not show that an "appropriate amount" of CETA Title II funds has been committed to farmworkers by other prime sponsors within whose territories it proposes to operate a CETA section 303 program. The proposed rule reflects the Department's consistent practice in treating public agencies as eligible for CETA section 303 funding in the above circumstances.

DATE: Written comments on these rules must be submitted on or before January 12, 1981.

ADDRESS: Written comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Room 6318, 601 D Street, NW., Washington, D.C. 20213, Attention: Mr. Lindsay L. Campbell, Director, Office of Farmworker Programs.

FOR FURTHER INFORMATION CONTACT: Mr. Lindsay L. Campbell. Telephone: (202) 376-6128.

SUPPLEMENTARY INFORMATION: The regulations for the CETA section 303 program (20 CFR 689.105(a)(1)) require that prime sponsors commit an "appropriate amount" of CETA Title II funds for migrant and other seasonally employed farmworkers in order to be eligible for CETA section 303 funds for use within their jurisdictions. Section 689.105(a)(2) further provides that a "public agency within such a prime sponsor's geographical boundaries designated by the prime sponsor to receive CETA section 303 funds in its place" is eligible for CETA section 303 funding.

The Department's consistent practice has been to treat public agencies (including prime sponsors proposing to operate programs in other prime sponsor's jurisdiction) as eligible for CETA section 303 funding when they receive concurrence from the prime sponsors in whose areas they propose to operate CETA section 303 programs, regardless of whether the concurring prime sponsors have themselves committed an "appropriate amount" of Title II funds to farmworkers under section 689.105(a)(1). Section 689.105(a)(2) has been consistently interpreted and applied by the Department in this manner.

The Department believes that it would be inappropriate to preclude the eligibility of such public agencies, which do not receive any Title II grants for the area in which they propose to operate programs, and which may be fully capable or operating a CETA section 303 program, merely because the concurring prime sponsor is itself ineligible because it has not committed an appropriate amount of Title II funds to seasonal farmworkers. The Department's interpretation maximizes the number of capable organizations eligible to compete for CETA section 303 grants without placing unreasonable burdens on any or them. Moreover, the Department's interpretation of these eligibility requirements is consistent with section 303(c)(1) of the 1978 CETA reauthorization, 29 U.S.C. 873(c)(1), which provides: "nor shall the Secretary assign any negative weighting factor to an application [for a section 303 grant] by virtue of the fact that an applicant is an instrumentality of State government."

The comment period on this proposed rule has been shortened to 30 days for the following reasons:

1. The proposed rule would clarify the eligibility requirements in the existing regulations to reflect DOL's consistent practice.

2. DOL's practice has been known, or at least available, to interested parties and the general public.

3. The proposed rule would not impose more restrictive eligibility requirements but instead would permit the universe of eligible applicants for CETA section 303 funding to be as large as reasonably possible.

4. It is important to clarify, as soon as possible, the status of the public agencies which now hold CETA section 303 grants in order to avoid disruption of services to seasonal farmworkers and to assure consistency with section 303(c)(1) of CETA, 29 U.S.C. 876(c)(1).

The financial and other impact of this regulation is less than specified in DOL's criteria for determining when a regulatory analysis should be made (See 44 FR 5576, January 26, 1979). Therefore, the preparation of a regulatory anaylsis is not required for this regulation.

The Migrant and Other Seasonally Employed Farmworkers Program is listed at Number 17.230 in the *Catalogue of Federal Domestic Assistance.* Applications for CETA § 303 grants are subject to OMB Circular No. A-95 clearinghouse procedures.

Accordingly, Part 689 of Chapter V of Title 20, Code of Federal Regulations is proposed to be amended as follows:

1. In § 689.103, the definition of "Eligible Applicant" is proposed to be revised to read as follows:

§ 689.103 Definitions.

* * * * *

"Eligible Applicant" shall mean a prime sponsor, public agency, or private nonproft organization which meets the requirements set forth in § 689.105 (Eligibility for allocable funds).

* * * * *

2. Section 689.105 is proposed to be amended by revising paragraph (a), removing paragraph (b), and redesignating paragraph (c) as paragraph (b) to read as follows:

§ 689.105 Eligibility for allocable funds.

(a) The following organizations and units of government shall be eligible to receive allocable funds under Section 303:

(1) A prime sponsor designated under § 675.5 which proposes to operate a Section 303 program within its own territory provided that such prime sponsor has within its jurisdiction a significant population of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title II of the Act in an appropriate amount;

(2) A public agency (including a prime sponsor proposing to operate a Section 303 program in the territory of another prime sponsor) designated by a prime sponsor to receive section 303 funds in its place and;

(3) * * *

(b) All applicants shall promptly provide the Department of Labor with documented evidence of services provided by the applicant to migrant or seasonal farmworkers upon request. If an applicant is the subject of administrative or judicial proceedings at the State or Federal level alleging lack of services to farmworkers, then the applicant must submit with its preapplication a copy or summary of the allegations and of the applicant's refutation of the allegations. The Department of Labor may require from the applicant additional documentation before deciding the applicants' eligibility.

3. In § 689.204-1, paragraph (c)(5) is proposed to be revised to read as follows:

§ 689.204-1 Grantee Agreement.

* * * * *

(c) * * *

(5) For applicants required to obtain prime sponsor concurrence under § 689.105(a)(2), documentation of such concurrence.

* * * * *

(Section 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*, Pub. L. 95-524, 92 Stat. 1970))

Signed at Washington, D.C., this 8th day of December 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-38652 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 79N-0009]

Medical Devices; Premarket Approval of Medical Devices; Proposed Establishment of Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes procedures for the premarket approval of medical devices. The proposal prescribes the contents of an application for premarket approval (PMA) and sets forth the criteria FDA will employ in approving, disapproving, or withdrawing approval of a PMA.

DATES: Written comments by February 10, 1981. FDA proposes that the regulation become effective 120 days after the date of publication of the final rule in the Federal Register.

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

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments) to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) (the act) became law on May 28, 1976. Requirements for premarket approval of class III medical devices are set forth in new section 515 of the act (21 U.S.C. 360e). Section 513(a)(1)(C) of the act (21 U.S.C. 360c (a)(1)(C)) provides that all class III devices are subject to premarket approval to provide reasonable assurance of their safety and effectiveness before introduction to the market. A device may be classified into class III: (1) By operation of law if the device is a new device, i.e., it was not on the market immediately before May 28, 1976, and it is not substantially equivalent to a device that was on the market before that date (postamendments device); (2) If FDA classifies or reclassifies it into class III (preamendments device); or (3) By operation of law under section 520(1) of the act (21 U.S.C. 360j(1)) because it is a transitional device that was previously regarded as a new drug or an antibiotic drug, unless exempt under section 520(g) of the act (21 U.S.C. 360j(g)) (transitional devices). The timing and manner of premarket approval will depend on whether the device is a postamendments, a preamendments, or a transitional device.

Postamendments Devices

A postamendments device, i.e., one first commercially distributed on or after May 28, 1976, is classified into class III under section 513(f) of the act (21 U.S.C. 360c(f)) unless it is substantially equivalent: (1) To another postamendments device that has been classified into class I or class II; or (2) to a preamendments device that has not been classified into class III. If classified into class III, a postamendments device remains in class III unless FDA reclassifies it.

Preamendments Devices

A preamendments device is one that was distributed commercially before May 28, 1976 or one that is substantially equivalent to such a device. Such a device requires premarket approval if FDA classifies it into class III under section 513 of the act and after FDA calls for safety and effectiveness data, i.e., a PMA, pursuant to a final regulation issued under section 515(b) of the act. Under section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), however, such devices may remain on the market without FDA approval until the last day of the 30th calendar month beginning after the month in which the classification of the device into class III becomes effective under section 513 of the act, or until the 90th day after the effective date of a regulation requiring a manufacturer to submit a PMA, whichever is later. A section 515(b) regulation may be issued and made final at any time, but the regulation may not have an effective date earlier than 30 months after final classification of the device into class III. Within 90 days after such a regulation or 30 months after final classification, whichever is later, the applicant is required to submit a PMA or cease commercial distribution of the device and recall all devices distributed. (A sponsor, however, may

obtain an investigational device exemption (IDE) and continue limited distribution to obtain safety and effectiveness data through clinical trials.)

FDA may vary the requirements of premarket approval depending upon the data that are available for a preamendments device. In some instances, safety will be considered established and only evidence of effectiveness will be required.

Transitional Devices

A PMA is required to be submitted for a class III transitional device unless special provision has been made under section 520(1) of the act. Transitional devices are those that were considered new drugs or antibiotic drugs before the enactment of the amendments. Accordingly, transitional devices are automatically classified in class III until FDA determines that a particular device does not require class III status and reclassifies it. Special provisions are made for certain devices subject to pending or approved drug applications such as an effective investigational new drug exemption (IND), or an approved new drug application (NDA). Pending NDA's are considered to have been filed under section 515 of the act on the enactment date. A device with an approved NDA is considered to have an approved PMA.

Information on transitional devices is contained in § 860.136 (21 CFR 860.136) of the procedures regulations, and in the notice implementing the transitional provisions of the amendments (see the Federal Register of December 16, 1977; 42 FR 63472).

FDA intends to regulate any postamendments antibiotic device not substantially equivalent to a device in commercial distribution immediately before May 28, 1976 in the same manner as other postamendments nonequivalent devices. Thus, such devices would be regulated pursuant to section 513(f)(1) and sections 513(f)(2), 515(a)(2) or 520(g) of the act. Consequently, manufacturers intending to market antibiotic devices shall submit premarket notifications as required by section 510(k) of the act and Part 807 of the agency's regulations (21 CFR Part 807).

Special provisions are applicable to intraocular lenses (IOL's). In the Federal Register of November 11, 1977 (42 FR 58874), FDA issued a final rule restricting IOL's to investigational use under section 520(g) of the act. Upon completion of current IOL investigations, sponsors of IOL's are required either to obtain premarket approval or cease distribution and recall all unimplanted devices.

Investigational Devices

Premarket approval is not required for a class III device that is not in commercial distribution. A PMA may be submitted, however, while clinical investigations continue with a device that is the subject of an IDE (21 CFR Part 812).

Definitions

Proposed § 814.3 defines terms used in this regulation.

Proposed § 814.3(e) defines "master file." Manufacturers may wish to establish master files (MF's) and submit them to FDA for use in licensing a device to another manufacturer, as is done with IND's and NDA's. MF's on file with FDA will be destroyed if inactive for a period of time of more than 2 years.

Proposed § 814.3(g) defines a "statement of material fact" as one that tends to prove that the safety or effectiveness of the device is more probable than it would be in the absence of such a statement. A false affirmation, silence, or an omission that would lead a reasonable person to draw a particular conclusion as to the safety or effectiveness of a device, may also be a "statement of material fact," even if the statement was not intended by the person making it to be misleading or to have any probative effect. This definition is adopted from the definition of relevant evidence found in the Federal Rules of Evidence (Rule 401).

Confidentiality

Proposed § 814.9 describes how FDA would treat data in a PMA file. FDA is currently considering revising its policy on disclosing the existence of PMA submissions. In the Federal Register of March 28, 1978 (43 FR 12869, as corrected at 43 FR 13857; March 31, 1978), FDA proposed to disclose to the public upon request the existence of a submitted but not yet approved PMA. Accordingly, § 814.9(a) is reserved until the proposed change becomes effective.

FDA maintains a list available for public disclosure of all approved PMA's. Until a PMA is approved or its existence is made public by the applicant, however, all information submitted about the application, including, at present, its existence, is treated as confidential. Proposed § 814.9(b) provides that FDA may, in its discretion, disclose a summary of selected portions of the safety and effectiveness data in a PMA not yet approved if disclosure is relevant to public consideration of a specific pending issue.

Section 520(h) of the act requires FDA to disclose summaries of the safety and effectiveness data that form the basis for its order approving, denying, or withdrawing approval of an application for premarket approval. Proposed § 814.9(c) identifies the data and information available to the public after the sponsor abandons the application or upon final FDA action on an application, including approval, withdrawal of approval, or reclassification of the device. Letters of denial are also disclosable under section 552(a)(2) of the Administrative Procedure Act (5 U.S.C. 552(a)(2)).

Master Files (MF's) are considered confidential.

Research Conducted Outside the United States

Proposed § 814.15 provides that a PMA may include data from research conducted outside the United States if the research meets the IDE requirements in 21 CFR Part 812 and applicants permit on-site FDA inspection of the manufacturing facilities, research facilities, clinical sites, etc. If the research were initiated before the effective date of the PMA regulation, the applicant would be required to provide reasonable assurance that the data are scientifically valid and that the rights of human subjects have not been violated.

The agency intends that this will include assurance that investigators adhered to the Declaration of Helsinki and that the research was in compliance with the laws of the country in which it was conducted.

Procedures for the protection of human subjects that are generally applicable to all clinical investigations are contained in the Department of Health and Human Services' regulations on "Protection of Human Rights" (45 CFR Part 46), FDA's proposed rules on standards for institutional review boards for clinical investigations and for informed consent (see the Federal Register of August 14, 1979 (44 FR 47699 and 47713)), and the IDE regulations (21 CFR Part 812). The provisions of proposed § 814.15 represent a slight modification of the provisions of § 312.20 (21 CFR 312.20) pertaining to the use of foreign data in support of an NDA. Applicants are encouraged to confer with FDA to determine the acceptability of research conducted in a foreign country.

Product Development Protocols

The product development protocol (PDP) is an alternative procedure by which the manufacturer or sponsor of a class III device may obtain premarket approval. Proposed § 814.19 provides that a PDP that FDA has declared to be completed is equivalent to an approved PMA. Under the PDP procedure, FDA

involvement in the development of a device begins at an early stage and continues throughout the testing period in the development of data to demonstrate the device's safety and effectiveness.

The investigation of a device and the development of information necessary for its premarket approval are merged. Acceptance of a PDP, however, is contingent upon FDA's determination that the PDP procedure is an appropriate alternative to submission of an IDE application under 21 CFR Part 812 or a PMA under the regulation proposed in this document. That determination lies within FDA's discretion. PDP's will not normally be considered for preamendments products. A notice announcing the availability of a PDP guideline was issued in the Federal Register of September 19, 1980 (45 FR 62555).

Contents of the PMA

Subpart B describes a PMA. An official form is not required for a PMA. Proposed § 814.20 describes the information that would be required to be assembled and submitted in a PMA. A guideline for the arrangement and content of a PMA may be obtained on request to the Bureau of Medical Devices (HFK-402), 8757 Georgia Ave., Silver Spring, MD 20910.

An applicant would be required to submit 12 copies of a PMA, bound in volumes of reasonable size, so that each advisory panel member may have a complete copy to review. Proposed § 812.20(b)(3) requires a PMA to include a comprehensive summary. Information which should be included in the summary is described in the guideline for the arrangement and content of a PMA.

Proposed § 814.20(b)(4) requires a PMA to include in its description of the device a complete list of its functional components, ingredients, properties, and principles of operation. It also requires information to permit assessment of the sponsors compliance with the good manufacturing practice regulations (21 CFR Part 820). Information in a PMA considered by the applicant to be confidential under section 520(c) of the act shall be identified in one copy of the PMA. This will aid FDA in identifying material that must be reviewed to determine disclosability in responding to freedom of information requests under 21 CFR Part 20. FDA is required by law to exercise its independent judgment regarding the public disclosure of material regarded by the sponsor as confidential. If necessary, FDA will consult with the applicant concerning questionable matters of confidentiality in accordance with 21 CFR 20.45. Routine identification of material as confidential by the applicant, however, is not regarded as consultation with the applicant under 21 CFR 20.45.

Proposed § 814.20(b)(5) requires the PMA to identify any voluntary standard relevant to the safety or effectiveness of the device and any mandatory performance standard, established or proposed under section 514 of the act or under the Radiation Control for Health and Safety Act of 1968, applicable to the device under consideration in the PMA. The sponsor would be required to state whether the device is to be manufactured in accordance with the identified standards and explain any deviation from the standards.

Proposed § 814.20(b)(6) requires the PMA to include a bibliography of publications that are relevant to an evaluation of the safety and effectiveness of a device. It also requires the applicant to submit with the PMA copies of all published adverse information as well as all unpublished adverse information about the device in the possession of or reasonably obtainable by the applicant.

FDA expects the applicant to submit samples of the device with the PMA, although the applicant may cite the location of a working model that FDA may examine if the size or other characteristics of the device make submission of a sample impractical. Proposed § 814.20(b)(9) so provides.

FDA believes that to minimize potential bias and ensure that test results can be replicated, any clinical investigation of a device should ordinarily involve more than one investigator. Thus, if an investigation has involved only one clinical investigator, proposed § 814.20(b)(13) requires that the applicant include in the PMA justification why it is reasonable to accept data collected by only one clinical investigator to demonstrate safety and effectiveness of the device.

Proposed § 814.20(c) provides that a PMA may refer to a master file (MF). A MF may be initiated by submitting it in three copies with or prior to the PMA to the Document Control Center (HFK-20), Bureau of Medical Devices, 8757 Georgia Ave., Silver Spring, MD 20910, (301-427-7059). The receipt of the MF will be independently acknowledged. Additional information may be added to MF's at any time. FDA has guidelines applying to the acceptance and maintenance of device MF's. These are available on request to the Document Control Center, Bureau of Medical Devices, at the above address. MF submissions not conforming to FDA guidelines will not be accepted.

Insufficient Information in the PMA

Proposed § 814.31 specifies the conditions under which FDA would determine that the information in a PMA is insufficient. This section should be read with proposed § 814.40, which relates to the "filing" of a PMA, and proposed § 814.44(f), which describes material facts in a PMA. If a PMA lacks required information or contains an untrue statement of material fact, FDA would consider the PMA unsuitable for filing, deny approval of the PMA, or withdraw approval of it depending on the status of the application.

Proposed § 814.31(c) provides that a PMA may be considered to contain insufficient information if, after written notice from FDA, the applicant fails or refuses to furnish FDA investigators an opportunity to inspect pertinent records. FDA may require access to records to verify data or to ensure that the rights, safety, or welfare of human subjects have not been compromised.

Amended, Resubmitted, and Supplemental PMA's

Proposed § 814.37 describes when and how an applicant may amend or resubmit a PMA.

Amendments that require extensive FDA review may result in an extension of the time required for review of the PMA. At FDA's discretion, an extension may be for as long as 180 days after the date of filing of the amendment. If a PMA has been withdrawn, denied, or not accepted for filing, the applicant may resubmit it. A person resubmitting a PMA would be required to state the reasons for its resubmission.

Proposed § 814.39 describes the circumstances requiring submission of a supplemental PMA.

The holder of an approved PMA would be required to submit a supplemental PMA if proposed changes significantly affect the safety or effectiveness of the device. For uniformity of reporting, the proposal requires that any such modifications of an approved device be reported to FDA as PMA amendments or supplements rather than by a premarket notice under section 510(k) of the act (21 U.S.C. 360(k)).

Administrative Action on the PMA

Proposed § 814.40 explains the action FDA will take upon receipt of a PMA. FDA will acknowledge in writing receipt of a PMA. Within 30 days of receipt, FDA will review the PMA to determine whether it complies with Subpart B.

A PMA is considered "filed" within the meaning of section 515(c) of the act if FDA concludes that the PMA is

complete and suitable for consideration. The 180-day review period provided by section 515(d) of the act begins on the date the PMA is filed. If the PMA is complete and suitable for review, the date the PMA is received is the date it is filed. An incomplete PMA, however, is not considered to be filed until the PMA is resubmitted and accepted for filing. FDA will treat as incomplete any PMA that fails to meet the requirements of proposed § 814.31 (or § 814.39 if the submission is a supplemental PMA).

An applicant may obtain administrative review of FDA's decision to refuse to file a PMA by requesting that the PMA be filed over protest, as provided in proposed § 814.40(d)(3). Proposed § 814.40(d)(3) provides that the review period for a PMA filed over protest begins on the date that FDA receives a written request that the PMA be filed over protest, rather than the date the PMA was originally received.

Incompatible Requests

Proposed § 814.42(b)(1) provides that FDA will refuse to accept a PMA for filing if the applicant has submitted either a petition for reclassification of the device under section 513 of the act, or a premarket notification to determine whether the device is substantially equivalent to a preamendments device under section 510(k) of the act. This proposed section of the regulations is intended to preclude an applicant from simultaneously submitting a PMA while requesting reclassification or a determination of a substantial equivalency.

Each of the procedures listed above is independent. FDA resources are not adequate to permit the agency to process simultaneous requests for more than one type of action on the same device. Moreover, an FDA finding of substantial equivalence pursuant to a premarket notification under section 510(k) of the act or approval of a petition for reclassification could remove the need for a PMA. An applicant is obligated to decide whether to sumbit a premarket notification, a petition for reclassification, or a PMA. The applicant is not precluded from submitting a petition for reclassification or a PMA after initial action on its premarket notification.

FDA also intends to conserve resources in the event a premarket notification or a petition for reclassification for the same or substantially equivalent device is received from one manufacturer, and a PMA is received from another. Proposed § 814.42(b)(2) allows FDA to delay action on a PMA as premature if it determines the device is substantially equivalent to an as yet unclassified preamendments device or if it believes the device may be reclassifed. If a preamendments device is later proposed by notice in the Federal Register to be classified into class III and thus required to undergo premarket approval, the sponsor may resubmit the petition for reclassification. Similarly, a PMA for a device that is substantially equivalent to an as yet unclassified preamendments device may be denied subject to reinstatement if FDA proposes to classify the device into class III. FDA may, however, in its discretion, accept voluntary PMA submissions even if a premarket notification or reclassification petition is pending, if it expects that the device is likely to remain in class III.

The Effect of FDA Refusal to Accept a PMA

FDA refusal to accept a PMA for filing pursuant to proposed § 814.42(c) does not constitute a formal denial of the PMA. Thus, the applicant is not entitled to immediate administrative review because the PMA has not been filed within the meaning of section 515(c) of the act. FDA will notify the applicant that the submission is inadequate and that it should either be abandoned or revised. If the applicant revises and resubmits the PMA, the 180-day period for review of the PMA beings on the date FDA files the resubmitted PMA.

Panel Review and FDA Action

Proposed § 814.44(a) provides that after a PMA is filed, FDA would refer the PMA to the appropriate devices advisory panel for review. The panel will review the PMA and submit to FDA a report and recommendations together with the reasons for its recommendations. An applicant may be asked to attend portions of panel meetings that deal with its PMA. After FDA reviews the PMA and the recommendations of the panel, FDA will either approve or deny the PMA or inform the applicant in writing of deficiencies in the PMA that may be corrected.

Section 515(d) of the act and proposed § 814.44(b) require FDA either to approve or deny a PMA within 180 days after the date the PMA is filed. FDA will always inform the applicant in writing that the application is not approvable before issuing an order denying approval of the PMA. No further action will be taken, and FDA will consider the PMA voluntarily withdrawn unless the applicant requests formal denial for purposes of obtaining administrative and judicial review. An exception is made in the statute and § 814.44(b) if the applicant and FDA agree to extend the time period for FDA evaluation and action. The 180-day period may not be extended for a preamendments device that is classified into class III unless FDA determines that continued availability of the device is necessary for the public health. The 180-day time requirement does not apply to transitional devices for which FDA has 120 days to either approve or deny a PMA.

FDA will approve a PMA by an order, i.e. a letter, to the applicant. An applicant may market the device after receipt of the order. Proposed § 814.44(c) provides that FDA will announce approval of any PMA in the Federal Register. The statute does not require FDA to publish the approval of a PMA although section 515(d)(3) of the act permits an interested person to obtain review of an approved PMA. The Federal Register announcement will advise manufacturers of similar devices of restrictions on the device and allow the public an opportunity to obtain review of a PMA order. A summary of the safety and effectiveness data on which the approval is based would be available upon request. Also, persons wishing to obtain review of the approval order may request a hearing under section 515(g) of the act or may petition FDA to reconsider its action.

Proposed § 814.44(d) states that a PMA approval order may include restrictions on the sale and distribution of a device. Other postapproval requirements may include continuing studies, prominent labeling of important warnings, hazards or precautions, identification codes, PMA expiration dates, and batch testing. Restrictions may be applied to substantially equivalent devices by regulation under section 520(e) of the act or in orders approving PMA's for similar devices. (Proposed § 814.80 describes other postapproval requirements that may be imposed, generally subsequent to approval of a PMA.)

Voluntary Withdrawal

Proposed § 814.44(e) provides that the applicant withdraw a PMA if FDA finds that additional evidence is needed to prove safety and effectiveness or that the methods, facilities, and controls used in manufacturing, processing, and packing the device are inadequate. Withdrawal of a PMA by a manufacturer constitutes a waiver of the opportunity for administrative review of FDA's conclusion that more evidence is needed, but avoids the public stigma of formal FDA denial of a PMA. Withdrawal preserves the confidentiality of the PMA.

Denial or Withdrawal of Approval of a PMA

Section 515(d)(2) of the act requires FDA to deny approval of a PMA if FDA finds that there is insufficient evidence to conclude that a device is reasonably safe and effective. Section 515(e) of the act requires FDA to withdraw approval of a PMA if new evidence shows that the supporting data are inadequate. These statutory requirements are reflected in proposed § 814.45.

The requirements of these regulations include compliance with other regulations. Thus, FDA may regard a PMA as inadequate and deny approval of it for failure to comply with applicable FDA regulations such as those that may be established in proposed 21 CFR Part 52 (obligations of sponsors and monitors of clinical investigations see 42 FR 49612; September 27, 1977), 21 CFR Part 54 (obligations of clinical investigators see 43 FR 35210; August 8, 1978), or 21 CFR Part 56 (standards for institutional review boards see 44 FR 47698; August 14, 1979) or those that are set forth in 21 CFR Part 58 (good laboratory practice regulations), or the IDE requirements in 21 CFR Part 812.

FDA will, by order as provided in § 814.17, notify the applicant that an inadequate PMA may not be approved. FDA will also publish a notice of the order in the Federal Register, including notice of opportunity for administrative review of the determination.

Whenever it can, FDA will suggest in a denial order measures required to place a PMA in an approvable form.

Section 515(e) of the act provides that FDA may withdraw approval of a PMA based on information obtained after the PMA was approved if there is a lack of a showing of reasonable assurance that the device is safe or effective as labeled. FDA will provide the applicant an opportunity for an informal hearing under 21 CFR Part 16 before withdrawing a PMA; if, FDA concludes that grounds for withdrawal exist, it will issue an order withdrawing approval of the PMA and publish a notice of the order in the Federal Register. The order will be effective immediately upon issuance of the letter unless the order provides for a different effective date. Interested persons will be afforded an opportunity for administrative review of a decision to approve a PMA and the applicant may petition for administrative review of a decision to deny or withdraw approval of a PMA under section 515(g) of the act.

Administrative Review

The specific procedures for administrative review of FDA actions on a PMA, including approval, denial, or withdrawal have not yet been determined. Subpart D (Administrative Review) is therefore reserved at this time. This subpart will be proposed as a procedural regulation in the near future.

Postapproval Requirements

Proposed § 814.80 requires that the device be manufactured, packaged, stored, labeled, distributed, and advertised in the manner authorized in a PMA approval order.

Changes in the device, its manufacture, packaging, storage, labeling, or advertising that may affect the safety or effectiveness of the device require FDA approval of a supplemental PMA. Changes in the device that do not affect safety or effectiveness, shall be periodically reported as specified in the PMA approval order.

Proposed § 814.82 describes some postapproval requirements that FDA may impose, including labeling or advertising restrictions and provisions that records must be kept, organized, and indexed into identifiable files for ease of reference. The agency may also require the applicant to provide patient identifying data, including information that would permit FDA to trace the patient.

FDA will not ordinarily seek patient identifying information except to verify data associated with the device or to identify the patient to notify him or her of a serious health danger.

Proposed § 814.82(b) provides that FDA will usually impose necessary postapproval requirements in the order approving the PMA. Additional or revised postapproval requirements may, however, be imposed whenever FDA concludes that they are necessary to protect the public health.

Failure to observe postapproval requirements is a reason for withdrawal of approval of a PMA under § 814.45. An applicant may treat an additional or revised postapproval requirement as a withdrawal of approval of the PMA for purposes of obtaining an opportunity for an informal hearing under Part 16. Failure to request a hearing on the requirement within 30 days of its imposition is a final waiver of all right to obtain administrative or judicial review of the requirement.

Reports

Proposed § 814.84 requires manufacturers of marketed devices to comply with the requirements of 21 CFR Part 803 (mandatory device experience reporting) which will be published as a proposal in the Federal Register in the near future. A PMA device is subject to the same requirements for reporting defects as other devices in commercial distribution except that reports pertaining to a PMA device must include the PMA number.

Periodic reports may be imposed by the approval order or at any time after approval that the need for the reports is determined; § 814.84(b) prescribes the contents of periodic reports unless FDA specifies otherwise.

FDA has carefully considered the environmental effects of the proposed regulation. The proposed action will not significantly affect the quality of the human environment.

Therefore, FDA has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

The recordkeeping and periodic reporting requirements contained in this proposal are subject to clearance by the Office of Management and Budget (OMB) under the Federal Reports Act of 1942 (44 U.S.C. Chaper 35). FDA intends to submit to the Director of OMB, copies of this proposed regulation and other related materials during the comment period on the proposal. If OMB approves the proposed requirements, FDA intends to impose the requirements at the time a final regulation based on the proposal is made effective. If OMB does not approve without change the recordkeeping and periodic reporting requirements contained in the proposal, FDA will revise the final regulation as necessary to comply with OMB's determination. Any comments received from OMB will become part of the administrative record for this matter and will be placed on file for public review in the Dockets Management Branch, FDA, in Docket No. 79N-0009.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501-503, 510, 513-520, 701(a), 702, 703, 704, 705, 706, 708, and 801; 52 Stat. 1049-1052 as amended, 76 Stat. 794-795 as amended, 60 Stat. 540-574, 52 Stat. 1056-1057 as amended, 67 Stat. 477 as amended, 52 Stat. 1057-1058, 74 Stat. 399-407 as amended, 90 Stat. 582, 52 Stat. 1058-1059 as amended (21 U.S.C. 351, 352, 353, 360, 360c-360j, 371(a) 373, 374, 375, 379, 381) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 814, to read as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

Subpart A—General

Sec.
814.1 Scope.
814.3 Definitions.
814.9 Confidentiality of data.
814.15 Research conducted outside the United States.
814.17 Service of orders.
814.19 Product development protocol (PDP).

Subpart B—Premarket Approval Application (PMA)

814.20 Application.
814.31 Insufficient information in a PMA.
814.37 amended and resubmitted PMA's.
814.39 Supplemental PMA's.

Subpart C—FDA Action on a PMA

814.40 Accepting or refusing to file a PMA.
814.42 Grounds for acceptance or refusal.
814.44 Procedures for review.
814.45 Denial or withdrawal of approval of a PMA.

Subpart D—Administrative Review [Reserved]

814.80 General.
814.82 Postapproval requirements.
814.84 Reports.

Subpart A—General

§ 814.1 Scope.

(a) This part implements section 515 of the act by providing procedures for the premarket approval of medical devices intended for human use.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Tile 21, unless otherwise noted.

(c) This part applies to any class III medical device that:

(1) Was not on the market (introduced or delivered for introduction into interstate commerce for commerical distribution) immediately before May 28, 1976, and is not substantially equivalent to a device on the market immediately before May 28, 1976;

(2) Is required to have an approved application for premarket approval (PMA) under a regulation issued under section 515(b) of the act; or

(3) Was regarded by FDA as a new drug or antibiotic drug before May 28, 1976, under section 520(1) of the act unless exempt under section 520(g) of the act.

§ 814.3 Definitions.

For the purposes of this part:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act (sections 201–901, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321–392)).

(b) "Amended PMA" means a change in a pending PMA which has not been approved.

(c) "FDA" means the Food and Drug Administration.

(d) "IDE" means an investigational device exemption under section 520(g) of the act and Part 812.

(e) "Master file" (MF) means a reference source that a person submits to FDA and that provides detailed information on a specific manufacturing facility, process, methodology, or component used in the manufacture, processing, or packaging of a medical device.

(f) "Person" includes any individual, partnership, corporation, association, scientific or academic establishment, Government agency or organizational unit of a Government agency, or any other legal entity.

(g) "Statement of material fact" means a representation that tends to prove that the safety or effectiveness of a device is more probable than it would be in the absence of such a representation. A false affirmation or silence or an omission that would lead a reasonable person to draw a particular conclusion as to the safety or effectiveness of a device may also be a statement of material fact, even if the statement was not intended by the person making it to be misleading or to have any probative effect.

§ 814.9 Confidentiality of data.

(a) [Reserved].

(b) Until a PMA is approved, FDA shall regard as confidential the existence of a PMA and all data and informaion in a PMA file that has not been publicly disclosed or acknowledged. FDA may, however, disclose a summary of portions of the safety and effectiveness data, before approving a PMA, if disclosure is relevant to public consideration of a specific pending issue.

(c) Unless extraordinary circumstances are shown, all safety and effectiveness data and information—other than trade secret and privileged or confidential commercial information as defined in section 520(c) of the act and § 20.61—are available for public disclosure in the following situations:

(1) A PMA has been abandoned or FDA has determined that no PMA is necessary. A PMA is considered abandoned if the applicant fails to communicate with FDA within 90 days after the date on which FDA notifies the applicant that the PMA appears to have been abandoned; or

(2) FDA has withdrawn approval of a PMA or determined that the PMA is not approvable, and the applicant has exhausted all avenues of administrative and judicial review; or

(3) The device has been reclassified into class I or class II; or

(4) The PMA for the device has been approved by FDA.

(d) An MF is considered to be confidential.

§ 814.15 Research conducted outside the United States.

(a) A PMA containing a foreign study must state whether the study was performed in compliance with the law of the foreign country in which the study was performed, whether the investigator was fully informed of the results of animal toxicity and prior human safety studies, and whether any patient consent procedures required by the foreign country in which the study was performed were followed.

(b) FDA will accept studies submitted in support of a PMA, conducted outside the United States, and begun after the effective date of these regulations, if the studies are consistent with Part 812 and if an FDA representative may visit the foreign site to obtain further information. FDA may waive these requirements upon application by the applicant, provided FDA finds that they are not required by the act and are unnecessary to protect the rights, safety, or welfare of human subjects.

(c) FDA will accept studies submitted in support of a PMA, conducted outside the United States, and begun before the effective date of this regulation if FDA is satisfied that the data are scientifically valid and that the rights, safety, or welfare of human subjects have not been violated.

§ 814.17 Service of orders.

Orders issued under this part shall be served in person by a designated officer or employee of FDA, or by registered mail, to the applicant or the designated agent at the applicant's or designated agent's last known address in FDA's records.

§ 814.19 Product development protocol (PDP).

A class III device for which a product development protocol has been declared completed by FDA under Part 815 shall be considered to have an approved PMA.

Subpart B—Premarket Approval Application (PMA)

§ 814.20 Application.

(a) The applicant or an authorized representative shall sign the PMA. If the applicant does not reside or have a place of business within the United States, the PMA shall be countersigned by an authorized representative residing or maintaining a place of business in the

United States and shall identify the representative's name and address.

(b) Unless FDA authorizes an omission, a PMA shall include:

(1) The name and address of the applicant.

(2) A table of contents that specifies the volume and page number for each referenced item. A PMA shall include separate sections on in vitro, animal, and clinical testing. A PMA shall be submitted in 12 copies, bound in one or more numbered volumes of reasonable size except that manufacturing data required by subparagraph (4)(v) of this paragraph may be submitted in 5 copies and except that information considered by the applicant to be confidential under section 520(c) of the act may be identified in one copy of the PMA.

(3) A comprehensive summary of the PMA, including a reference to any IDE approved for the device, the basis for claims made for the device, and all information demonstrating its safety and effectiveness.

(4) A complete description of:

(i) The device including photographs, drawings, or other pictorial depictions;

(ii) Each of the functional components or ingredients of the device if the device consists of more than one physical component or ingredient;

(iii) The properties of the device used in the prevention, diagnosis, treatment, or cure of a disease or condition;

(iv) The principle(s) of operation of the device; and

(v) The methods used in, and the facilities and controls used for, the manufacture, processing, packing, storage, and, where appropriate, installation of the device, in sufficient detail so that a person generally familiar with good manufacturing practice can make a knowledgeable judgment about the quality control used in the manufacture of the device.

(5) Reference to any performance standard under section 514 of the act or under the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263(b) et seq.) in effect or proposed at the time of the submission (and to any voluntary standard) relevant to any aspect of the safety or effectiveness of the device. The applicant shall state whether the device will be manufactured to meet the standards and (i) provide adequate information to demonstrate how the device meets the performance standards, or (ii) justify any deviation.

(6)(i) A bibliography of all publications, whether adverse or supportive, known to the applicant that are relevant to an evaluation of the safety or effectiveness of the device, copies of all published adverse information, and copies of all unpublished adverse information in the possession of, or reasonably obtainable by, the applicant, and, if an institutional review board or FDA requests, copies of other significant publications; and (ii) A summary of all other unpublished information (whether adverse or supportive) in the possession of, or reasonably obtainable by, the applicant that is relevant to an evaluation of the safety or effectiveness of the device.

(7) If information on nonclinical laboratory studies is provided, a statement that all nonclinical laboratory studies have been conducted in compliance with applicable requirements in Part 58, or a detailed description of, and justification for, any difference between the practices used in the studies and those required by Part 58. Failure or inability to comply with Part 58 requirements does not justify failure to provide information on a relevant nonclinical laboratory study.

(8) A summary of any clinical investigation of the device including copies of the results of such testing conducted or supported by the applicant. The summary shall state whether clinical investigations were conducted in compliance with Parts 52, 54, and 56. For any clinical investigation not conducted in compliance with these parts, the summary shall contain a brief statement of the reason for the noncompliance.

(9) One or more samples of the device and its components, if requested by FDA. If it is impractical to submit a requested sample of the device, the applicant shall name the location at which FDA may examine and test one or more devices.

(10) Copies of proposed information, instructions for installation, literature, and labeling for the device.

(11) For restricted devices under § 801.109 or under section 520(e) of the act, copies of:

(i) Labeling containing information on the use of the device, its effects, maintenance, and calibration and any relevant warnings and potential risks;

(ii) When requested by FDA, patient labeling summarizing in lay language the labeling in subparagraph (i); and

(iii) When requested by FDA, promotional pieces whether distributed in written form or otherwise.

(12) An environmental assessment as required under § 25.22.

(13) If only one clinical investigator has participated in the investigation, justification that shows that a single investigator is sufficient to demonstrate the safety and effectiveness of the device and to ensure that test results can be replicated.

(14) When requested by FDA, an environmental impact statement meeting the requirements of Part 25.

(15) Such other information as FDA may request.

(c) Pertinent information in FDA files specifically referred to by an applicant may by reference be incorporated into a PMA. Information in an MF or other information submitted to FDA by a person other than the applicant will not be considered part of a PMA unless such use is authorized in writing by the person who originally submitted the information or the MF.

(d) A PMA, PMA amendment, PMA supplement, or correspondence on a PMA shall be sent to the Document Control Center, HFK-20, Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

§ 814.31 Insufficient information in a PMA.

FDA will consider a PMA insufficient to permit a determination of whether the device is safe and effective if:

(a) The PMA does not include all the information required by § 814.20 (or § 814.39 if the submission is a supplemental PMA;

(b) The PMA contains a false statement of a material fact; or

(c) After written notice, the applicant fails or refuses to allow duly authorized FDA investigators an adequate opportunity, at a reasonable time and in a reasonable manner, to inspect the facilities and all records pertienent to the PMA.

§ 814.37 Amended and resubmitted PMA's.

(a) An applicant may amend a pending PMA if the applicant believes that part of the original PMA should be changed. The amendment shall comply with the requirements for an original PMA and shall include the PMA number assigned to the original PMA and the applicant's reasons for submitting the amendment. FDA may, at its discretion, extend for a period up to 180 days, the time required for its review of the PMA if an amendment is substituted.

(b) FDA may request the applicant to amend a PMA with any information regarding the device that is necessary for FDA to complete the review of the PMA. If the information requested is not submitted within 30 days following the date of the request, FDA will consider the PMA to be inactive. FDA will consider an inactive PMA to be withdrawn after 6 months.

(c) An applicant may resubmit a PMA after withdrawing its PMA or after the FDA has refused to accept it for filing or has denied approval. A resubmitted

PMA shall comply with the requirements for an original PMA and shall include the PMA number assigned to the original PMA and the appalicant's reasons for resubmitting the PMA.

§ 814.39 Supplemental PMA's.

(a) After FDA approval of a PMA, an applicant shall submit a supplemental PMA for review and approval by FDA before making changes that significantly affect the safety or effectiveness of a device. Such changes include, but are not limited to:

(1) New indications for use of the device;

(2) Labeling changes;

(3) Changes in manufacturing facilities, methods, or quality control procedures; or involvement of subcontractors, suppliers, or distributors;

(4) Changes in sterilization procedures;

(5) Changes in packaging;

(6) Changes in the performance or design specifications, circuits, components, ingredients, or physical layout of the device.

(b) An applicant may make a change in a device after FDA's approval of a PMA without submitting a supplemental PMA if the change does not significantly affect its safety or effectiveness and the change is reported to FDA in periodic reports imposed in the PMA approval order.

(c) A supplemental PMA shall be limited to information relevant to the proposed changes in the device.

(d)(1) Changes in labeling, manufacturing, sterilization, packaging, or performance or design specification which enhance safety of the device or safety in the use of the device may be placed into effect by the sponsor prior to the receipt of a written FDA approval of the supplemental PMA provided:

(i) The submission is plainly marked on the mailing cover and on the supplement "Special PMA Supplement—Changes Being Effected.";

(ii) The supplemental PMA provides a full explanation of the basis for the changes;

(iii) The applicant has received acknowledgement from the Bureau of Medical Devices of receipt of the supplement; and

(iv) The supplement specifically identifies the date that such changes are being effected.

(2) Specific examples of changes permitted by subparagraph (1) of this paragraph are:

(i) Addition of warnings, contraindications, or side effects;

(ii) Deletion of misleading, false, or unsupported indications; and

(iii) Changes in the manufacturing process or quality controls that provide additional assurance of purity, identity, strength, or reliability.

(3) FDA may, as experience permits, issue guidelines listing specific types of changes that do not require FDA approval prior to implementation. Such guidelines will be used to avoid the need to amend the regulation.

Subpart C—FDA Action on a PMA

§ 814.40 Accepting or refusing to file a PMA.

(a) FDA will notify the applicant in writing of the date its PMA is received.

(b) Within 30 days of receipt of any PMA, FDA will accept it for filing and review, if it complies with the requirements of Subpart B.

(c) During FDA review of a PMA, FDA may notify the applicant of any apparent deficiencies. An applicant so notified who believes its PMA is not deficient may treat the PMA as denied and request administrative review under section 515(g) of the act.

(d) To calculate the period within which FDA shall act on a PMA, the date of filing is the date FDA receives:

(1) An original PMA, if that PMA is accepted for filing;

(2) A resubmitted PMA, if it is accepted for filing; or

(3) A written request that the PMA be filed over protest.

§ 814.42 Grounds for acceptance or refusal.

(a) A PMA that complies with the requirements of Subpart B and is accepted for filing will be reviewed if it contains sufficient information for review.

(b)(1) FDA will not accept a PMA for filing:

(i) If the applicant has submitted a petition for reclassification of the device under section 513(f) of the act; or

(ii) If the applicant has a pending premarket notification under section 510(k) of the act with respect to the device.

(2) If FDA receives, for the "same" device, (i) a petition for reclassification or a premarket notification, and (ii) a PMA from a "different" manufacturer, FDA may delay action on the PMA without prejudice to the applicant if FDA believes that the device may be reclassified, or that the premarket notification may result in a determination of substantial equivalency if such a determination would have a bearing on the need to submit a PMA.

(c) If FDA refuses to accept a PMA for filing, it will by written notice, promptly notify the applicant of the reasons for refusal. An applicant who disagrees with such a refusal may request in writing that the previously submitted PMA be filed over protest. This request should be sent to the Hearing Clerk, HFA-305, Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

§ 814.44 Procedures for review.

(a) A PMA accepted for filing or filed over protest will be forwarded by FDA to the appropriate devices advisory panel for review. The panel will submit to FDA a report, recommendations, and the basis for its recommendations on the PMA. FDA will distribute a copy of the PMA or its relevant portions, to each panel member and will consult with the panel in one of the following ways:

(1) Discussion at a panel meeting; or

(2) Consultation by mail or telephone with at least a majority of current voting panel members and, when possible, each nonvoting panel member.

The method of consultation chosen by FDA will depend upon the importance and complexity of the subject matter involved and the time available for action. When time and circumstances permit, FDA will consult with a panel through discussion at a panel meeting.

(b) FDA will review the report and the recommendations of the panel and, within 180 days after the date of filing of a PMA (unless, in accordance with section 515(d)(1)(B)(i) of the act, and additional period is agreed upon by FDA and the applicant):

(1) Issue an order under § 814.44 (c) approving the PMA; or

(2) Inform the applicant in writing that the application is not approvable. If practical, FDA shall inform the applicant of the deficiencies in the PMA, and the measures required to place it in approvable form; or

(3) After informing the applicant in writing that the application is not approvable, issue an order under § 814.45(c) denying approval of the PMA.

(c) FDA will issue a PMA approval order if FDA finds that none of the grounds for denying approval specified in section 515(d)(2) of the act applies. FDA will notify the applicant of the approval as provided in § 814.17 and will publish notice of the order in the Federal Register, including notice of opportunity to petition for administrative review pursuant to section 515(g) of the act and Subpart D, and including notice that a detailed summary of information respecting the safety and effectiveness of the device, including information about any adverse effects of the device on health, has been

placed on public display and that copies are available upon request. When a notice of approval is issued in the Federal Register, data and information in the PMA file will be available for public disclosure upon request (pursuant to § 814.9(c)).

(d) A PMA approval order may impose postapproval conditions, including:

(1) Restricted sale and distribution of the approved device, to the extent that the sale and distribution of the device may be restricted under section 520(e) of the act;

(2) Continuing or special studies of the safety or effectiveness of the device;

(3) Prominent display, on all labeling of the device, of warnings, hazards, or precautions important for its safe and effective use;

(4) Identification codes on the device or its labeling or—in the case of an implant, on cards given to patients—so that patients or their physicians can readily determine whether they are affected in the event of a recall;

(5) Automatic termination of a PMA approval on a specified expiration date or upon occurrence of a specified event;

(6) Batch testing of the device by FDA, the applicant, or some other person.

(e) FDA may suggest that a PMA be withdrawn if it finds that:

(1) Additional evidence is needed to support a finding that the device is safe and effective, or

(2) The methods, facilities, and controls used in manufacturing, processing, and packing the device are inadequate.

§ 814.45 Denial or withdrawal of approval of a PMA.

(a) FDA will issue an order denying or withdrawing approval of a PMA if the applicant has failed to follow the requirements of this part, or if FDA finds that the material specified in §§ 814.20 and 814.39 is inadequate to support a conclusion that the device is safe and effective as specified in section 515(d)(2) or (e) of the act, or if other information available to FDA creates doubts about the safety or effectiveness of the device. The criteria specified in § 860.7 will be used in determining the safety and effectiveness of a device.

(b) FDA will notify the applicant of the denial of approval or proposed withdrawl pursuant to § 814.17 and will publish notice of the order in the Federal Register, including notice of opportunity for administrative review pursuant to section 515(g) of the act and Subpart D.

(c)(1) Before withdrawing an approved PMA, FDA will afford the applicant an opportunity for an administrative hearing under Part 16.

(2) If the PMA is denied or an approved PMA is withdrawn, FDA will afford the applicant an opportunity for an administrative hearing under Part 12.

(d)(1) The notice of denial or withdrawal will state that a detailed summary of information about the safety and effectiveness of the device, including information about adverse effects of the device on health, is available upon request. When a notice of denial or withdrawal is published in the Federal Register, data and information in the PMA file will be available for public disclosure upon request (pursuant to § 814.9(c)).

(2) To the extent practical, the order of denial of approval will be accompanied by a statement informing the applicant of the measures required to place the PMA in approvable form.

(e) FDA may seek advice on scientific matters from its devices advisory panels in deciding whether to withdraw approval of a PMA.

Subpart D—Administrative Review—[Reserved]

Subpart E—Postapproval Requirements

§ 814.80 General.

A device shall be manufactured, packaged, stored, labeled, distributed, and advertised in the manner authorized in the PMA approval order.

§ 814.82 Postapproval requirements.

(a) FDA may impose requirements in the PMA approval order or by regulation, at the time of approval as provided in § 814.44(d) and this section or subsequently, including:

(1) Labeling or advertising requirements including patient information requirements, e.g., information provided to the patient on alternative modes of therapy and on risks and benefits associated with the device;

(2) Records maintenance requirements, e.g., for specified periods to enable FDA to determine whether there are grounds to withdraw approval of the PMA under § 814.45, and organization and indexing of records into identifiable files;

(3) Periodic reports (containing the information required by § 814.84(b)) regarding the safety and effectiveness of the device to be prepared, maintained, and submitted to FDA at intervals specified in the PMA approval order or as later designated by FDA.

(4) Provision to FDA of patient identification and information needed to trace patients, if FDA notifies the applicant in writing that individual patient identification is required.

(5) Such other requirements as FDA may from time to time impose.

(b) Generally, postapproval requirements will be imposed by the order approving the PMA. FDA may, however, impose additional requirements at any time, without prior notice to the applicant, if FDA determines that additional requirements are necessary to protect the public health.

(c) An applicant shall grant FDA access to any records and reports required under the provisions of this part, and shall permit authorized FDA employees to copy and verify such records and reports and to inspect at a reasonable time and in a reasonable manner all manufacturing facilities, without notice, to vertify that the device is being manufactured, stored, labeled, and shipped under approved conditions.

(d) Failure to comply with postapproval requirements of this part constitutes grounds for withdrawal of approval of a PMA under § 814.45.

(e) Postapproval requirements imposed subsequent to FDA approval of the PMA may be treated by the applicant as a withdrawal of approval for purposes of requesting an informal hearing under Part 16. Failure of the applicant to request a hearing within 30 days of the receipt of notice that additional requirements are necessary, constitutes a waiver of all right to administrative and judicial review of such postapproval requirements.

§ 814.84 Reports.

(a) An applicant shall comply with the reporting requirements of Part 803 (mandatory device experience reporting) and shall include the PMA number with the report.

(b) Unless FDA specifies otherwise, any periodic report shall:

(1) Identify changes in the physical or chemical characteristics of the device, including the use of substitute materials not identified in the PMA or a supplemental PMA;

(2) Identify changes in the manufacturing process used with the device, including changes in quality control and in sterilization, packing and storage procedures not identified in the PMA or a supplemental PMA.

(3) Contain a summary and bibliography of the following information not previously submitted as part of the PMA;

(i) Unpublished reports of in vitro, animal, and clinical data involving the device or related devices reported to, or reasonably availably to, the applicant;

(ii) Reports in the scientific literature involving the device. (If, after reviewing the summary and bibliography, FDA concludes that it needs a copy of the unpublished or published reports, FDA will notify the sponsor that copies of such reports, shall be submitted.)

Interested persons may, on or before February 10, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 1, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-38573 Filed 12-11-80- 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 22

[Docket No. SD-163]

Change in Fees for Consular Services

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposed a revised Schedule of Fees for consular services performed in the United States or in foreign countries. The Schedule is being changed in accordance with a recent study of policies, costs and fees for consular services and with the user charge principle, as prescribed by the Congress and applied by the Department in keeping with Office of Management and Budget guidelines.

The new Schedule sets fees for services which provide special benefits to individuals. It also identifies various services to be rendered without fee. The new Schedule of Fees for Consular Services will be reviewed and revised periodically to insure cost recovery to the full extent possible in keeping with national interests.

DATE: Comments must be received on or before January 12, 1981. The proposed effective date is February 12, 1981

ADDRESS: Send comments to Mr. Ronald K. Somerville, Bureau of Consular Affairs, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Charles Ellison (202) 632-3528.

SUPPLEMENTARY INFORMATION: The Department of State is responsible for providing various consular services to United States citizens and foreign nationals. These include: passport and citizenship services; visa services for aliens; services relating to vessels and seamen; notarial services and authentications; services relating to taking of evidence; copying and recording services; examination services; and other services to assist Americans in foreign countries.

Fees were adjusted to ensure that they are fair and equitable, taking into consideration direct and indirect cost to the U.S. Government, benefit to the recipient, public policy or interest served, and other related considerations. The total cost for each type of service in relation to the number of services was the basis for determining the average unit cost. Such unit cost represented the optimum level for the fee to be charged in the interest of cost recovery to the full extent possible. Fees by type of service were set so as not to exceed the average unit cost, but, in several instances, were set below this level due to policy considerations. The extent to which the U.S. Government or the general public benefits from services was considered, as was reciprocity in relations with other governments.

Accordingly, Part 22 of Title 22 of the Code of Federal Regulations would be revised as set forth below:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

Sec.

22.1 Schedule of fees.
22.2 Requests for services in the United States.
22.3 Remittances in the United States.
22.4 Requests for services, Foreign Service.
22.5 Remittances to Foreign Service posts.
22.6 Refund of fees.
22.7 Collection and return of fees.
22.8 Effective date.

Authority: Secs. 3, 4, 63 Stat. 111, as amended (22 U.S.C. 811a; 2658; 22 U.S.C. 2651; 5 U.S.C. 483a; 22 U.S.C. 1201); E.O. 10718, 22 FR 4632; 3 CFR, 1954-1958 Comp. page 382.

§ 22.1 Schedule of fees.

Item number	Fee
Passport and Citizenship Services	
1. Execution of application for passports	$5.00.
2. Examination of passport application executed before a foreign official.	$5.00.
3. Issuance of passport (22 U.S.C. 214)	$10.00.
(Item No. 4 vacant)	
5. Issuance of card of identity	$5.00.
6. Execution of application for and issuance of passport:	
(a) To officers or employees of the United States proceeding abroad or returning to the United States in the discharge of their official duties, or members of their immediate families (22 U.S.C. 214).	No fee.
(b) To American seamen who require a passport in connection with their duties aboard an American flag-vessel (22 U.S.C. 214).	Do.
(c) To widows, children, parents, brothers, or sisters of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C 214).	Do.
(d) To employees of the American National Red Cross proceeding abroad as a member of the Armed Forces of the United States (10 U.S.C. 2602(c)).	Do.
(e) Peace Corps Volunteers and Volunteer Leaders, who are deemed to be employees of the United States for purposes of exemption from passport fees (22 U.S.C. 2504(a)).	Do.
7. Amendment to passport:	
(a) To show current or new information, including changes in members of family.	Do.
(b) To correct administrative error	Do.
(c) To extend time limitation	Do.
8. Verification of passport	Do.
9. Execution of application for registration	Do.
10. Execution of affidavit in regard to American birth in connection with application for passport or citizenship determination.	Do.
11. Administering the oath of allegiance to a native-born American woman who lost her citizenship.	Do.
12. For delivery to the applicant of a certified copy of an executed form:	
(a) Of repatriation of a native-born American woman whose marital status with an alien terminated prior to January 13, 1941.	$4.00.
(b) Of repatriation of a native-born American woman under sec. 324 of the Immigration and Nationality Act (8 U.S.C. 1435).	$4.00.
(c) Of repatriation under the act of July 20, 1954 (8 U.S.C. 1438 supp.) of a person who while a citizen of the United States lost his citizenship by voting in Japan between September 2, 1945 and April 27, 1952, inclusive.	$4.00.
13. Documents relating to births, marriages or deaths of American citizens abroad where reported to a Foreign Service post:	
(a) Registration of birth of American citizen, including furnishing one copy of Form FS-240 "Report of Birth Abroad of a Citizen of the United States of America".	$13.00.
(b) "Certificate of Witness to Marriage" in quadruplicate.	$55.00.
(c) Authentication of original documents of marriage, per copy.	$4.00.
(d) "Report of Death of an American Citizen" and sending one copy each to legal representative and to closest known relative or relatives.	No fee.
[Certified copies of the above documents may be obtained from Passport Services, Department of State, Washington, D.C. 20524, $4.00 per copy]	
14. Documents from passport files and related records (except as specified in item 13):	
(a) For file search	$8.00.
(b) For duplicating by photocopy or other such means, per each copy of each page.	$0.20.
(c) For certifying of a true copy	$2.00.
(d) For certifying by letter under official seal a statement or extract from passport files or a statement that no record of a passport file can be located (plus $8 search charge 14a).	$2.00.

Item number	Fee
15. Any service described in Item 14 when:	
(a) Required for official use by an agency of the Federal Government or of any of the States or their subdivisions or of the District of Columbia, or of any of the territories and possessions of the United States.	No fee.
(b) Performed in response to a subpoena or other order of a court. (However, fees are chargeable when the service is for the benefit of a party in interest and a court order or subpoena is issued in an individual's behalf).	Do.
(c) Performed in providing to a party in interest, a copy of the transcript of a hearing held before a panel, board, or other authority of the Department.	Do.
16. Granting an exception under 22 CFR 53.2(h) of Travel Control Regulations.	$60.00.
17. Instant Photo Service, where offered by a Foreign Service post, for each pair of identical photographs	$7.00.
(Item Nos. 18 and 19 vacant)	
[*Surcharges*, per Item No. 93, are required for any fee services under *Passport and Citizenship* when performed away from office or during non-duty hours either in the United States or in a foreign country.]	
Visa Services for Aliens	
20. Furnishing and verification of application for immigrant visa, including duplicate copy.	$5.00.
21. Issuance of each immigrant visa	$20.00.
22. Furnishing and verification of application and issuance of nonimmigrant visa. (Fees prescribed in Appendix C, Visa Handbook of Department of State, as amended from time to time).	Recip.
23. Furnishing and verification of application and issuance of nonimmigrant visa to:	
(a) An alien proceeding solely in transit to and from the headquarters district of the United Nations under the provisions of section 11 of the Agreement between the United Nations and the United States of America regarding the headquarters of the United Nations (61 Stat. 756).	No fee.
(b) An official representative of a foreign government, or an international or regional organization of which the U.S. is a member.	Do.
(c) An alien participating in a U.S. Government program.	Do.
24. Visa or supplemental visa of alien crew list:	
Up to 40 crew members	$35.00.
41 to 100 crew members	$60.00.
101 to 200 crew members	$66.00.
Over 200 crew members	$152.00.
25. Revalidation or transfer of a nonimmigrant visa	Recip.
(Item Nos. 26 through 29 vacant)	
[*Surcharges*, per Item No. 93, are required for any fee services under *Visa Services for Aliens* when performed away from office or during non-duty hours.]	
Services Relating to Vessels and Seamen	
30. Noting marine protest, when required by a master of a foreign or an undocumented vessel.	$9.00.
31. Extending marine protest, when required by a master of a foreign or an undocumented vessel.	$52.00.
32. Protest of master against charterers or freighterers, when required by a master of a foreign or an undocumented vessel.	$8.00.
33. Shipment or discharge of seaman on undocumented vessel, each seaman.	$5.00.
34. Recording of bill of sale of vessel purchased abroad, taking of application for provisional certificate of registration or certificate of American ownership, and investigation.	$40.00.
35. Issuance of provisional certificate of registry or certificate of American ownership.	$30.00.
36. Services under this tariff (unless designated "no exceptions") when performed for American vessels or for American seamen (22 U.S.C. 1186).	No fee.
(Item Nos. 37 through 44 vacant)	
[*Surcharges*, per Item No. 93, are required for any fee services under *Services Relating to Vessels and Seamen* when performed away from office or during non-duty hours. However, only one such SURCHARGE may be applied to a group served on the same visit under Item 33.]	
Notarial Services and Authentications	
45. Administering an oath and certificate thereof	$4.00.
46. Taking the acknowledgement of the execution of a document, and certificate thereof.	$4.00.
47. Certifying under official seal that a copy or extract made from an official or a private document is a true copy. For certifying each copy of each page.	$2.00.
48. Certifying to official character of a foreign notary or other official (i.e., authenticating a document).	$4.00.
49. Administering oaths, taking acknowledgements, or supplying authentications, in connection with application for letters patent or registration of trademarks, or with the assignment or transfer of rights thereunder.	$4.00.
50. Administering an oath and certificate thereof for petition for immediate relative, non-immigrant finance(e), temporary workers non-immigrant intracompany transferee, or preference immigrant status.	$4.00.
51. Administering oaths or taking acknowledgements, or authenticating the signatures of officials, in connection with kinsmen's petitions for wages and effects of deceased seamen of the American merchant marine (46 U.S.C. 627).	$13.00.
52. For affidavit of petitioner or his agent on documents or evidence to be presented to the Federal Government.	$4.00.
53. Authenticating a Federal, State or Territorial seal, or certifying to the official status of an officer of the United States Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the United States Government, or any document submitted to the Department for that purpose.	$4.00.
(Item No. 54 vacant)	
55. Noting of a negotiable instrument for want of acceptance or payment, certifying to protest and giving notice to issuer and endorsers when requested to do so.	$10.00.
(Item Nos. 56 through 57 vacant)	
58. Services under the heading, "Notarial Services and Authentications" when rendered:	
(a) In connection with the execution of forms or documents required by an to be presented to any department or agency of the Federal Government.	No fee.
(b) In connection with the assignment and transfer of United States bonds or other Federal financial obligations or the execution of powers of attorney therefor to collect interest thereon.	Do.
(c) In connection with the execution of forms or documents required by and to be presented to the States and their subdivisions, the District of Columbia, or any of the territories or possessions of the United States.	Do.
(d) In the execution of tax returns for filing with the Federal or State Governments or political subdivisions thereof.	Do.
(e) To claimants and beneficiaries and their witnesses, in connection with Federal, State and municipal allotment, pension, retirement, insurance, medical compensation, or like benefits.	Do.
(f) To American citizens, while outside the United States, in preparation of ballots to be used in any primary, general or other public elections in the United States or in territories under their jurisdiction.	Do.
(g) For official non-commercial use by a foreign government or by an international agency of which the Government of the United States is a member.	Do.
(h) To an official of a foreign government in circumstances where furnishing the service is an appropriate or reciprocal courtesy.	Do.
(i) To U.S. Government personnel and Peace Corps volunteers or their dependents officially stationed or traveling in a foreign country.	Do.
59. Affidavit on preparation and packing of remains.	Do.
60. Consular mortuary certificate	Do.
(Item Nos. 61 through 65 vacant)	
66. Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behlal of an idigent party as contemplated by 18 U.S.C. 3495.	Do.
67. Providing seal and certificate for return of letters rogatory executed by foreign officials.	$16.00.
(Item No. 68 vacant)	
[*Surcharges*, per Item No. 93, are required for fee services under *Notarial Services and Authentications* when performed away from office or during non-duty hours.]	
Services Relating to the Taking of Evidence	
69. In taking depositions or executing commissions to take testimony:	
(a) For the services of a diplomatic or consular officer. (For each hour or fraction thereof, but without surcharge).	$90.00
(b) For the services, if required, of a staff member of the Foreign Service as interpreter, stenographer or typist. (For each hour or fraction thereof, but without surcharge).	$35.00
[Transportation and incidental expenses shall be collected if applicable to services performed under (a) or (b) above.]	
Decedents and Decedents' Estates	
70. Taking into possession under 22 U.S.C. 1175 the personal estate of any citizen who shall die within the limits of a consular district, and arranging for inventory, sale, and final disposition thereof according to law.	No fee.
71. Services as described under Item No. 70 above when performed in the case of a deceased employee of the United States.	Do.
72. For placing or removing official seal on estates of decedents; for disbursing funds supplied by relatives and others; for forwarding to legal representative or other authorized person of securities and other instruments not negotiated (or not negotiable) by the consular officer, or evidence of bank deposits of the decedent; or for releasing on the spot against memorandum receipt and without occasion either for safekeeping on official accountability or for consular inventory and appraisal, to the legal representative or other authorized person in the country, of personal property taken into nominal possession for the explicit purpose or transfer of custody.	Do.
73. Arrangements for shipping or other disposition of remains.	Do.
(Item No. 74 vacant)	
Copying and Recording	
75. For typing a copy of document or extract of a document. (For each 200 words or part thereof).	$3.00.
76. For photocopying or otherwise duplicating a document. (For each copy of each page). (This fee does not apply to such customary activities as issuance of copies of records: (1) from supplies kept for distribution, such as press releases and information leaflets; (2) as part of normal and generally reciprocal services performed by the post's library or the library of the Department at the request of similar agencies or institutions; or (3) in lieu of or as enclosures to letters with the purpose of saving costs in preparing mail.).	$0.20.
(Item Nos. 77 through 81 vacant).	
Examination Services	
82. Supervising or proctoring an examination at the request of an agency or instrumentality of the Federal or a State Government by a consular or other officer, including completion of a certificate without seal. (For each hour or fraction thereof, unless the cost is reimbursable to the Department of State by an agency or instrumentality of the Federal or a State government; however, surcharge of Item No. 93 does not apply.).	$90.00.
Exemption for Federal Agencies and Corporations	
83. Any and all services (unless above designated "no exceptions") performed for the official use of the Government of the United States or of any corporation in which the Federal Government or its representative shall own the entire outstanding capital stock.	No fee.
Other Consular Services	
84. Preparing and sending Interested Party Messages for the primary benefit of non-government individuals, organizations or groups:	
(a) From Department of State to a Foreign Service post.	$15.00.
(b) From a Foreign Service post to another Foreign Service post or to the Department of State.	$15.00.

Item number	Fee
85. Translating of documents to assist non-government individuals, organizations or groups (for each hour or fraction thereof of staff employee time, but without surcharge).	$35.00.
86. U.S. Selective Service Registration in a foreign country.	No fee.
87. Distribution of U.S. Treasury checks to Federal beneficiaries.	Do.
88. Searching for and forwarding a document requested from a Foreign Service post by a non-government individual, organization or group (for each document).	Do.
(Item Nos. 89 and 90 vacant)	
91. Collection of fees by a Foreign Service post for: services performed by Department of State offices within the United States under this Schedule of Fees; services performed under 22 C.F.R. 614 (Freedom of Information Services).	Do.
92. Setting up and maintaining a trust account for one year or less to transfer funds to, or in behalf of, an American in need in a foreign country.	$15.00.
Surcharge for Service Rendered Away From Office or After Duty Hours in the United States or in a Foreign Country	
93. Except for instances of common disaster (i.e., ship wrecks, air crashes, etc.) or evacuations, a surcharge for service when rendered elsewhere than in a Department of State consular office or Passport Agency or at a Foreign Service post or after duty hours at the request of the parties concerned, shall be added to the regular fee:	
(1) American employee	$20.00.
(2) Foreign Service National employee	$10.00.

(In addition to the surcharge prescribed above, transportation and other incidental expenses necessarily being incurred by officers or staff employees of Passport Agencies in the U.S. or of Foreign Service posts shall be collected on an estimated cost basis from the persons requesting the performance of such services. Such collections shall not be considered as part of the official fees but shall be recorded as deposit funds and accounted for as such.)

§ 22.2 Requests for services in the United States.

(a) *Requests for records.* Requests by the file subject of the individual's authorized agent for services involving U.S. passport applications and related records, including consular birth, marriage and death records and authentication of other passport file documents, shall be addressed to Passport Services, Department of State, Washington, D.C. 20524. Requests for consular birth records should specify if a Consular Report of Birth (Form FS 240, or long form) or Certification of Birth (Form DS 1350, or short form) is desired. Advance remittance of the exact fee is required for each service.

(b) *Authentication services.* Requests for Department of State authentication of documents other than passport file documents must be accompanied by remittance of the exact total fee chargeable and addressed to the Authentication Officer, Department of State, Washington, D.C. 20520.

§ 22.3 Remittances in the United States.

(a) *Remittances in the United States.* Remittances shall be in the form of: (1) check on bank draft drawn on a bank in the United States; (2) money order, postal, international or bank; or (3) U.S. currency. Remittances shall be made payable to the order of the Department of State. The Department will assume no responsibility for cash which is lost in the mail.

(b) *Exact payment of fees.* Fees must be paid in full prior to issuance of requested documents. If uncertainty as to the existence of a record or as to the number of sheets to be copied precludes remitting the exact fee chargeable with the request, the Department of State will inform the interested party of the exact amount required.

§ 22.4 Requests for services, Foreign Service.

Officers of the Foreign Service shall charge for official services performed abroad at the rates prescribed in this schedule, in coin of the United States or at its representative value in exchange (22 U.S.C. 1202). For definition of representative value in exchange, see § 23.4 of this chapter. No fees named in this schedule shall be charged or collected for the official services to American vessels and seamen (22 U.S.C. 1186). The term "American vessels" is defined to exclude, for the purposes of this schedule, undocumented American vessels and the fees prescribed herein shall be charged and collected for such undocumented vessels. However, the fees prescribed herein shall not be charged or collected for American public vessels, which includes any vessel owned or operated by a U.S. Government department or agency and engaged exclusively in official business on a non-commercial basis. This schedule of fees shall be kept posted in a conspicuous place in each Foreign Service consular office, subject to the examination by all persons interested therein (22 U.S.C. 1197).

§ 22.5 Remittances to Foreign Service posts.

Remittances to Foreign Service posts from persons in the United States in payment of official fees and charges or for the purpose of establishing deposits in advance of rendition of services shall be in a form acceptable to the post, drawn payable to the American Embassy (name of city), American Consulate General (name of city) or American Consulate (name of city), as the case may be. This will permit cashing of negotiable instruments for deposit in the Treasury when not negotiated locally. See § 23.2 of this Chapter.

(a) *Time at which fees become payable.* Fees are due and payable prior to issue or delivery to the interested party of a signed document, a copy of a record, or other paper representative of a service performed.

(b) *Receipt for fees; register of services.* Every officer of the Foreign Service responsible for the performance of services as enumerated in the Schedule of Fees for Consular Services Department of State and Foreign Service (§ 22.1), shall give receipts for fees collected for the official services rendered, specifying the nature of the service and numbered to correspond with entries in a register maintained for the purpose (22 U.S.C. 1192, 1193, and 1194). The register serves as a record of official acts performed by officers of the Foreign Service in a governmental or notarial capacity, corresponding in this regard with the record which notaries are usually expected or required to keep of their official acts. See § 92.2 of this chapter.

(c) *Deposits to guarantee payment of fees or incidental costs.* When the amount of any fee is determinable only after initiation of the performance of a service, or if incidental costs are involved, the total fee and incidental costs shall be carefully estimated and an advance deposit required, subject to refund of any unused balance to the person making the deposit.

§ 22.6 Refund of fees.

Fees which have been collected for deposit in the Treasury are refundable: (a) as specifically authorized by law (see 22 U.S.C. 214a concerning passport fees erroneously charged persons excused from payment, 22 U.S.C. 216 concerning passport fees in cases where the appropriate representative in the United States of a foreign government refuses a visa, and 46 U.S.C. 8 concerning fees improperly imposed on vessels or seamen); (b) when the principal officer at the consular post where the fee was collected (or the officer in charge of the consular section at a combined diplomatic/consular post) finds upon review of the facts that the collection was erroneous under applicable law; and (c) where determination is made by the Department of State with a view to payment of a refund in the United States in cases in which it is impracticable to have the facts reviewed and refund effected by and at the direction of the responsible consular office. See § 13.1 of this chapter concerning refunds of fees improperly exacted by consular officers who have neglected to return the same to the Treasury.

§ 22.7 Collection and return of fees.

No fees other than those prescribed in the Schedule of Fees, § 22.1, or by or pursuant to an act of Congress, shall be charged or collected by officers of the Foreign Service for official services performed abroad (22 U.S.C. 1201). All fees received by any officer of the Foreign Service for services rendered in connection with the duties of office or as a consular officer shall be accounted for and paid into the Treasury of the United States (22 U.S.C. 99 and 812). For receipt, registry, and numbering provisions, see § 22.5(b).

§ 22.8 Effective date.

The charges hereby established will become effective on February 12, 1981 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

Date: December 9, 1980.

For the Secretary of State.

Robert H. Miller,

Acting Under Secretary for Management.

[FR Doc. 80-38735 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 201

[Docket No. R-80-898]

Manufactured (Mobile) Home Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request.

SUMMARY: Section 7(o)(4) of the Department of Housing and Urban Development Act permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice the Secretary is forwarding to the Chairman and Ranking Minority members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the 30 day delay of effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR 201 Manufactured (Mobile) Home Loan Program

This rule provides for increased mortgage limits for manufactured (mobile) homes as authorized by the Housing and Community Development Act of 1980. These increased loan limits are needed to maintain an insured financing program for manufactured (mobile) homes that does not require an excessively high downpayment.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., December 4, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-38590 Filed 12-11-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 23

Indian Child Welfare Act; Grants

November 26, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Bureau of Indian Affairs proposes to modify existing regulations to further implement the provisions of Title II of the Indian Child Welfare Act of 1978 (Pub. L. 95-608)—Grants to Indian Tribes and Indian Organizations for Indian Child and Family Programs, General Grant Requirements, Grant Revision, Cancellation or Assumption, and Hearings and Appeals. The Indian Child Welfare Act seeks to protect the best interest of Indian children by promoting the stability and security of Indian families and tribes by preventing the unwarranted and arbitrary removal of Indian children from their Indian homes. Title II authorizes the Secretary to make grants to Indian tribes and organizations on or "near" reservations, or off reservation, to plan, establish, operate and manage child and family service programs to carry out the intent of the Act. It is intended that when published as final rulemaking, these regulations will complement those related procedures published in 25 CFR Part 23—Indian Child Welfare Act implementation.

DATE: Comments must be received on or before January 12, 1981.

ADDRESS: Written comments should be addressed to: Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, telephone (703) 235-2756.

SUPPLEMENTARY INFORMATION: These proposed regulations incorporate public, and Bureau viewpoints concerning the grant program expressed during the first grant funding period under the Indian Child Welfare Act. Additional and supplemental viewpoints are now solicited prior to publication of the regulations in final form. The authority for issuing these regulations is contained in 25 USC 1952, 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 209 DM 8. The primary author of this document is Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Changes Made

(1) Section 23.21 is subdivided into paragraphs (a) and (b). Additional wording is included to clarify the point that only one application will be accepted from any eligible applicant as an individual, or in a consortium application during a grant application period, which will be published in the Federal Register. This point caused confusion during the last grant application period, resulting in some applicants submitting two different applications.

(2) Section 23.22 has been modified to establish a priority listing for funding of grants, by purpose of the grant, which is to be utilized when more than one application obtains the same score in a competitive review. It also offers further clarification of some of the purposes for grants under the Indian Child Welfare Act. This prioritization effort emphasizes prevention of separation of families, and more clearly reflects the intent of the Act.

(3) Section 23.24, paragraphs (c) and (d) are modified to more clearly define two pieces of information required in the grant application. Section (j) is changed to require evidence of substantial

community support, and the subsequent sections are renumbered accordingly.

(4) Section 23.25 has been rewritten to more clearly delineate the selection criteria used in reviewing grants, and consideration of the program priorities in the final ranking.

(5) Section 23.26 is revised by ending the last sentence in (b) by putting a period after "in (a) above." The cites that followed were eliminated in the revision of § 23.25.

(6) Section 23.27 is revised to more clearly delineate the various levels of grant approval authority and what is required in a grant application for approval in a competitive process. Paragraph (e) explains how funds will be distributed to applicants approved for funding. This section was changed to clarify that only applicants approved for funding will receive funding.

The grant program is a competitive program and the above changes are meant to clarify that process.

(7) In § 23.28 the cite in (a) is changed to § 23.30 to coincide with a numbering change. Paragraph (a) is changed and paragraph (c) and (d) are added to clarify and re-emphasize that programs of a national scope or involving more than one area are eligible for funding under this program, and to explain where such applications should be submitted.

(8) Section 23.29 Agency Office review and recommendation is changed to § 23.30 and a new section on technical assistance replaces it.

Technical assistance is made into a separate topic to highlight the availability of assistance, and the need to seek assistance prior to the close of the application period. After the close of the application period no modifications to the application will be considered in its review. This was added to clarify the situation where incomplete grant applications were being submitted just prior to the close of the application period for review and technical assistance. Applicants, who may have needed technical assistance but submitted their application just prior to the application deadline, were disapproved due to regulatory time constraints.

(9) Section 23.30 Deadline for agency office action is eliminated because the material is incorporated into a revised § 23.30 Agency office review and recommendation which more specifically outlines the agency responsibility in the entire grant review process. Completion of an Agency Office Certification form is now required for each application initially submitted to the agency office.

(10) Section 23.31 Area office review and action is revised in total.

The revisions reflect the changes made in the previous regulations, and delineate specific area office responsibilities in the grant review process.

(11) Section 23.33 is divided into two parts which explain Central Office preliminary approval and funding approval. The funding approval section was added to clarify that actual funding of grant applications is a process completely separate from any preliminary approvals. The regulation cite is changed in § 23.33(a)(1) to "23.31." This change is necessary in order to reflect the previous changes in the agency and area office review sections.

(12) In § 23.34 the regulation cite is changed to "23.33(a)." This is a change necessary to reflect a previous numbering change, and refers to a further clarification of the Central Office approval process.

(13) Section 23.43 is changed to specify funds under the Social Security Act or "under any other Federal financial assistance programs" which more accurately reflects the language of the act.

(14) In § 23.51 the cite is changed from § 23.29 to § 23.30 to coincide with previous changes.

(15) Section 23.62 is changed to "An appliant or grantee," to more clearly show that either an applicant for grant funds, or a grantee, a tribe or organization receiving funds, may appeal a decision under this section. Paragraph (b) is incorporated into an additional § 23.65.

(16) Section 23.63 is changed to "An applicant or grantee," to more clearly show that either an applicant for grant funds, or a grantee, a tribe or organization receiving funds, may appeal a decision under this section. Paragraph (b) is incorporated into an additional § 23.65.

(17) Section 23.64 is revised to more clearly explain that an applicant or grantee may appeal a decision made by the Commissioner, to the Assistant Secretary. Paragraph (b) is incorporated into an additional § 23.65.

(18) Section 23.65 is a new section which clarifies material previously contained in §§ 23.62(b), 23.63(b) and 23.64(b). The Department will not pay attorney or advocate fees resulting from the appeal process.

(19) Section 23.66 is the previous § 23.65 renumbered.

It is proposed to amend the Table of Contents to Part 23, Subchapter D, Chapter I, of Title 25 of the Code of Federal Regulations by revising §§ 23.29, 23.30, 23.65 and 23.66 to read as follows:

* * * * *

Sec.

23.29 Technical assistance.
23.30 Agency office review and recommendation.
* * * * *
23.65 Appellants Fees.
23.66 Failure of Agency or Area Office to Act.

* * * * *

It is proposed to amend Part 23 in Subchapter D, Chapter I, of Title 25 of the Code of Federal Regulations as follows:

PART 23—INDIAN CHILD WELFARE ACT

1. In Subpart C, §§ 23.21–23.22, 23.24–23.31, and 23.33–23.34 are revised to read as follows:

Subpart C—Grants to Indian Tribes and Indian Organizations for Indian Child and Family Programs

§ 23.21 Eligibility requirements.

(a) The governing body of any tribe or tribes, or any Indian organization, including multi-service Indian centers, may apply individually or as a consortium for a grant under this part.

(b) Each tribe, Indian organization, or consortium may submit only one grant application during an application period. The application period during which grant applications will be accepted will be published as a notice in the Federal Register.

§ 23.22 Purpose of grants.

Grants are for the purpose of:

(a) Establishment and operation of Indian child and family service programs. In accordance with the policy in § 23.3 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by Area Offices in the competitive ranking process when more than one application obtains the same competitive score pursuant to §§ 23.24 and 23.25. These program priorities are listed below in descending order.

(1) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(2) Family assistance (including homemaker and home counselors), day care, afterschool care, recreational activities, respite care, and employment.

(3) A system for tribes or Indian organizations to license or otherwise regulate Indian foster and adoptive homes or the preparation and implementation of child welfare codes within their legal jurisdictional

authority, or pursuant to a state-tribal and/or Indian organization agreement.

(4) Guidance, legal representation, and advice to Indian families involved in tribal, state, or Federal child custody proceedings.

(5) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters.

(6) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(7) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(8) Home improvements programs.

(9) Other programs designed to meet the purposes of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(b) Providing non-federal matching shares for other Federal financial assistance programs as prescribed in § 23.43. The order of priority of matching share grants will correlate with the purpose of the program receiving the match.

§ 23.24 Content of application.

Application for a grant under this part shall include:

(a) Name and address of Indian tribal governing body(s) or Indian organization applying for a grant.

(b) Descriptive name of project.

(c) Grant funds requested.

(d) The unduplicated client service population directly benefiting from the project.

(e) Length of project.

(f) Beginning date.

(g) Project budget categories or items.

(h) Program narrative statement.

(i) Certification or evidence of request by Indian tribe or board of Indian organization.

(j) Evidence of substantial community support for the proposed program.

(k) Name and address of the Bureau office to which an application is submitted.

(l) Date application is submitted to the Bureau, and

(m) Additional information pertaining to grant applications for funds to be used as matching shares.

§ 23.25 Application selection criteria.

(a) The Commissioner or designated representative shall select for grants under this part those proposals which will in his or her judgment best promote the purposes of Title II of the Act. Such selection will be made through a review process in which each application will be scored competitively, taking into consideration the content of the application as required in § 23.24, the program priorities as established in § 23.22(a), and the following factors:

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve.

(2) The degree to which the methods by which the applicant intends to fulfill the purpose of the grant specifically relate the goals and the objectives of the program to the issues and problems impacting the client population.

(3) Whether the applicant presents narrative, quantitative data, and demographics of the client population to be served.

Examples of such data include: The number of actual or estimated Indian child placements outside the home, the number of actual or estimated Indian family breakups, and the need for directly-related preventive program.

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining relative accessibility include:

(i) Cultural barriers;

(ii) Discrimination against Indians;

(iii) Inability of potential Indian clientele to pay for services;

(iv) Lack of programs which provide free service to indigent families;

(v) Technical barriers created by existing public or private programs;

(vi) Availability of transportation to existing programs;

(vii) Distance between the Indian community to be served under the proposal and the nearest existing programs;

(viii) Quality of service provided to Indian clientele; and

(ix) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of Indian family breakup, taking into consideration all factors listed in paragraphs (a)(1)(2)(3) and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(i) Letters of support from individuals and families to be served;

(ii) Local Indian community representation in and control over the Indian entity requesting the grant;

(iii) Letters from local social service or social service related agencies familiar with the applicant's past work experience.

(7) The explanation of proposed facilities and the organizational structure of the single organizational unit within the organization requesting grant funds. Position description of any person employed using grant funds which identify qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs to the proposed program or service.

(b) Selection for grants under this part for on or "near" reservation programs shall be limited to the governing body of the tribe to be served by the grant. However, the governing body of the tribe may make a subgrant or subcontract with another organizational entity including but not limited to an Indian organization, subject to the provisions of § 23.36.

(c) An Indian organization may make a subgrant or subcontract subject to the provisions of § 23.36.

§ 23.26 Request from tribal governing body or Indian organization.

(a) The Bureau shall only make a grant under this part for an on or "near" reservation program when officially requested to do so by a tribal governing body. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires.

(b) The Bureau shall only make a grant under this part for an off-reservation program when officially requested to do so by the governing body of an Indian organization. This request may be in one of the forms prescribed in paragraph (a) of this section.

§ 23.27 Grant approval limitation.

(a) Area Office preliminary approval. Authority for preliminary approval of a grant application under this part shall be with the Area Director when the intent, purpose and scope of the grant proposal pertains solely to an Indian tribe or tribes, or to an Indian organization

representing an off-reservation community, located within that Area Director's administrative jurisdiction.

(b) Central Office preliminary approval. Authority for preliminary approval of a grant application under this part shall be with the Commissioner when the intent, purpose and scope of the grant proposal pertains to Indian tribes, off-reservation communities or Indian organizations representing more than one Area Office's administrative jurisdiction but located within the Commissioner's overall jurisdiction.

(c) An application shall not receive a preliminary approval under this section unless a review of the application determines that it:

(1) Contains all the information required in § 23.24 and,

(2) Substantially meets the selection criteria explained in § 23.25,

(3) If an applicant has been a grantee during the year immediately preceeding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the area office review of the program must be provided in addition to the other materials required in this sub-section.

(d) Approval for funding. Approval for funding of all grant applications under this part shall be with the Commissioner.

(e) Actual funding of approved grant applications shall be subject to the availability of funds. These funds will include those which are:

(1) Directly appropriated for implementation of this Act. Distribution of these appropriated and available funds will be based upon a formula designed to ensure insofar as possible that all applicants approved for funding will receive a proportionate share of the available funds. This formula will be published as a Federal Register Notice.

(2) Appropriated under other Acts for Bureau programs which are related to the purposes prescribed in § 23.22.

§ 23.28 Submitting application.

(a) *Agency Office.* An application for a grant under this part for an on or "near" reservation program shall be initially submitted to the appropriate Superintendent for review and recommendation as prescribed in § 23.30. Programs encompassing more than one agency office jurisdiction shall be submitted simultaneously to each affected Agency Office, and to the Area Office. Each Agency Office will review and make a recommendation to the Area Office for approval or disapproval.

(b) *Area Office.* An application for a grant under this part for an off-reservation program shall be initially submitted to the appropriate Area Director for review and action as prescribed in § 23:31.

(c) An application for a grant under this part for a program that is national in purpose shall be submitted to the Central Office for review and action as prescribed in § 23.33.

(d) Programs encompassing more than one area office jurisdiction shall be submitted simultaneously to each affected area office and the Central Office. Each area office will review and make a preliminary recommendation to the Central Office for approval or disapproval.

§ 23.29 Technical assistance.

Technical assistance in the development of the grant proposal may be requested at any time by an applicant from the office to which an applicant will be submitting an application as prescribed in § 23.28, prior to the close of the application period. Modifications of the grant application received after the close of the application period will not be considered in the review and action on the application as prescribed in §§ 23.30, 23.31, and 23.33.

§ 23.30 Agency Office Review and Recommendation.

(a) Recommendation for approval, or disapproval of a grant under this part shall be made by the Superintendent when the intent, purpose and scope of the grant proposal pertains to or involves an Indian tribe or tribes located within that Superintendent's administrative jurisdiction.

(b) Upon receipt of an application for a grant under this part, the Superintendent shall complete and sign the Agency Office Certification, return it to the applicant and forward the application and a copy of the Agency Office Certification to the Area Office within 10 working days of the arrival at the Agency Office. In completing the certification form the Superintendent shall:

(1) Acknowledge receipt of the application.

(2) Assess the completed application for appropriateness of purpose as prescribed in § 23.22, and for overall feasibility.

(3) Review the application for completeness of information and promptly request any additional information which may be required to make a recommendation.

(4) Certify on the Agency certification form as to the completeness of the application.

(5) Recommend approval or disapproval following a review of the completed application with explanation of the recommendation.

(6) In instances where a joint application is made by tribes representing more than one Agency Office administrative jurisdiction, each respective superintendent shall make his or her recommendation for approval or disapproval, and shall forward the application and Agency Office certification form to the Area Director for further action.

§ 23.31 Area Office Review and Action.

(a) Upon receipt of an application for a grant requiring Area Office preliminary approval, the Area Director shall:

(1) Acknowledge receipt of the application to the applicant, in writing within 10 days of its arrival at the Area Office.

(2) Review the Agency Office Certification which is required in § 23.30. Area Directors will be responsible for the completion of the Agency Office Certification for any application initially submitted to the Area Office, including Indian organizations and multi-area applications.

(3) Assess the completed application for appropriateness and priority of purpose as prescribed in § 23.22, and for overall feasibility, through a selection committee process.

(4) Give preliminary approval or disapproval of the application following full assessment of the completed application as prescribed in § 23.24 and § 23.25 and forward grant decisions to the Central Office for further action, along with a copy of the standard form 424 Request for Federal Assistance for each grant application and the Agency Office Certification form.

(b) In instances where a joint application is made by tribes representing more than one Area Office administrative jurisdiction, each respective Area Director shall be responsible for completion of the agency office certification and shall make his or her recommendation for approval or disapproval and shall forward the application and recommendation to the Commissioner for further action.

(c) Upon taking action prescribed in paragraphs (a) and (b) of this section, the Area Director shall promptly notify the applicant in writing as to the action taken. If the action taken is disapproval, the Area Director will include in the written notice the specific reasons therefor.

§ 23.33 Central Office Review and Decision.

(a) *Central Office Preliminary Approval.* Upon receipt of an application for a grant requiring Central Office preliminary approval, the Commissioner shall:

(1) Review the application following the applicable review procedures prescribed in § 23.31.

(2) Review Area Office recommendations as they pertain to the application.

(3) Approve or disapprove the application.

(4) Promptly notify the applicant in writing as to the approval or disapproval of the application. If the application is disapproved, the Commissioner will include in the written notice the specific reasons therefor.

(b) *Approval for funding.* When the Commissioner has received the applications from each Area Director which have been preliminarily approved, pursuant to §§ 23.24 and 23.25, and prioritized pursuant to § 23.22, the Commissioner shall determine which applications shall receive funding, as required in § 23.27(d). Some preliminarily approved applications may not be funded depending on the level of congressional appropriations.

§ 23.34 Deadline for Central Office action.

Within 30 days of receipt of an application for a grant under this part the Commissioner shall take action as prescribed in § 23.33(a). Extension of this deadline will require consultation with a written consent of the applicant.

2. Subpart D is amended by revising § 23.43 to read as follows:

§ 23.43 Matching share.

(a) Specific Federal laws notwithstanding, grant funds provided under this part for on or "near" reservation programs may be used as non-Federal matching share in connection with funds provided under Titles IVB and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purposes specified in § 23.22.

(b) In the establishing, operating and funding of Indian child and family service programs both on, "near" or off-reservation, the Secretary of the Interior may enter into agreements with the Secretary of Health and Human Services for the use of funds appropriated for similar programs of the Department of Health and Human Services.

(c) Superintendents, Area Directors, and their designated representatives will, upon tribal or Indian organization request, assist in obtaining information concerning other Federal agencies with matching fund programs and will, upon request, provide technical assistance in developing applications for submission to those Federal agencies.

3. Subpart E is amended by revising § 23.51 to read as follows:

§ 23.51 Revisions or amendments of grants.

(a) Request for budget revisions or amendments to grants awarded under this part shall be made as provided in § 276.14 of this Chapter.

(b) Requests for revisions or amendments to grants provided under this part, other than budget revisions referred to in paragraph (a) of this section, shall be made to the Bureau officer responsible for approving the grant in its original form. Upon receipt of a request for revisions or amendments to grants, the responsible Bureau officer shall follow precisely the same review procedures and time specified in § 23.30.

4. Subpart F is amended by revising §§ 23.62—23.65 and adding a new § 23.66 to read as follows:

Subpart F—Hearings and appeals

§ 23.62 Appeals from decision or action by Superintendent.

An applicant or grantee may appeal any decision made or action taken by a Superintendent under this part. Such appeal shall be made to the Area Director as provided in Part 2 of this Chapter.

§ 23.63 Appeals from decision or action by Area Director.

An applicant or grantee may appeal any decision made or action taken by an Area Director under this part. Such appeal shall be made to the Commissioner as provided in Part 2 of this Chapter.

§ 23.64 Appeals from decision or action by Commissioner.

An applicant or grantee may appeal any decision made or action taken by the Commissioner under this part only as provided in Part 2 of this Chapter.

§ 23.65 Appellants Fees.

The Department will not pay attorneys or advocates fees for applicants or grantees exercising their appeal rights under this sub-part.

§ 23.66 Failure of Agency or Area Office to Act.

Whenever a Superintendent or Area Director fails to take action on a grant application within the time limits established in this part, the applicant may at its option, request action by the next higher Bureau official who has approval authority as prescribed in this part. In such instances, the Superintendent or Area Director who failed to act shall immediately forward the application and all related materials to that next higher bureau official.

William Hallett,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-38444 Filed 12-11-80; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 4

Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to amend § 4.133 of its Regulations (29 CFR 4.133) to clarify the treatment of concession contracts under the Service Contract Act. An earlier proposed amendment of § 4.133 had been published in the Federal Register on December 28, 1979 at 44 FR 77057. As a result of public comments received concerning this earlier proposed amendment and further evaluation of the matter by the Department of Labor, proposed paragraph (b) of § 4.133 has been further revised and clarified to (1) specifically list the types of concession contracts exempted from coverage of the Service Contract Act, (2) indicate that this exemption is not limited to National Park Service concession contracts but applies to qualifying concession contracts of other government agencies as well, and (3) indicate the types of concession contracts and bid specifications, including those of the National Park Service, which are not exempted from the Service Contract Act.

DATE: Comments must be received on or before January 12, 1981.

ADDRESS: Comments should be sent to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202-523-8333.

SUPPLEMENTAL INFORMATION: Coverage of the Service Contract Act is broad. It encompasses all contracts, or any bid

specifications therefor, entered into by and with the Government, which have as their principal purpose the furnishing of "services in the United States through the use of service employees." Since 1968, the Department of Labor has excepted certain contracts from the Act's provisions pursuant to § 4.133. The Department's current regulation excepts from the Act's requirements those concession contracts which provide services of "indirect or remote" benefit to the Government, for example, National Park Service food and lodging concessionaires serving the general public. This regulation, which the Department has construed very narrowly, was based on comments by some members of Congress, made after the Act's passage, that the Act's requirements should not be imposed on concession contracts whose purpose was to serve the public as opposed to the Federal Government or its personnel.

However, difficulties were encountered in applying the language of 29 CFR 4.133, particularly in circumstances where both the Government and the public seem to benefit, or where it is difficult to determine how "indirect or remote" is the benefit to the Government. Further, the regulation is susceptible of being misconstrued as providing that the Act itself does not cover a contract unless the services provided are of direct benefit to the Government.

For these reasons, the Department of Labor proposed to recast the regulation. Paragraph (a) of this proposed regulation published earlier in the Federal Register (44 FR 77057), plainly established that all government concession service contracts, like all other government contracts for service, fall within the Act's scope, regardless of whom those contracts directly benefit; and paragraph (b) of the regulation previously proposed simply exempted from the Act's coverage those contracts to operate a concession in a National Park for the purpose of furnishing food or lodging to the general public.

Public comments concerning proposed paragraph (b) question whether there is a sufficient basis to treat concession contracts in National Parks differently from similar concession contracts involving other Federal agencies, and indicate the need for further clarification of which concession contracts are exempt from and which are covered by the Service Contract Act.

Consequently, the Department of Labor proposes to further revise paragraph (b) to make clear both the limits of the exemption and that the exemption applies to all qualifying government concession contracts for services. Therefore, the Department of Labor proposes to continue to exempt, pursuant to its discretionary authority under 42 U.S.C. § 353(b), some kinds of concessionaire contracts. Exempted are those contracts which provide food, lodging, automobile fuel, souvenirs, newspaper stands, or recreational equipment to the general public, as distinguished from the Government and its personnel. Where concession contracts include services other than those just stated, such as the maintenance of government buildings and grounds and the dissemination of information about government programs or facilities, those services are not exempt.

The Secretary of Labor has determined, based on the information available, that because the proposed regulation is supported by statements of members of Congress, it is necessary and proper in the public interest; and further that because the proposed regulation will clarify the limits and make clear the basis of the previous exemption, it is therefore in accord with its remedial purpose to protect prevailing labor standards.

In accordance with the foregoing, it is proposed that 29 CFR 4.133 be amended as set forth below.

§ 4.133 Beneficiary of contract services.

(a) The Act does not say to whom the services under a covered contract must be furnished. So far as its language is concerned, it is enough if the contract is "entered into" by and with the government and if its principal purpose is "to furnish services in the United States through the use of service employees". It is clear that Congress intended to cover at least contracts for services of direct benefit to the Government, its property, or its civilian or military personnel for whose needs it is necessary or desirable for the government to make provision for such services. For example, the legislative history makes specific reference to such contracts as those for furnishing food service and laundry and dry cleaning service for personnel at military installations. Furthermore, there is no limitation in the Act regarding the beneficiary of the services, nor is there any indication that only contracts for services of direct benefit to the Government, as distinguished from the general public, are subject to the Act. Therefore, where the principal purpose of the Government contract or any bid specification therefor is to provide services through the use of service employees, the contract is covered by the Act, regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service, and irrespective of whether the contractor performs the work in its own establishment, on a Government installation, or elsewhere. The fact that the contract requires or permits the contractor to provide the services directly to individual personnel as a concessionaire, rather than through the contracting agency, does not negate coverage by the Act.

(b) Because of comments made shortly after the Act's passage by some members of Congress that the Act's requirements should not be imposed on certain concession contracts providing services to the general public, the Department of Labor, pursuant to Section 4(b) of the Act, exempts from the provisions of the Act certain kinds of concession contracts as provided herein. Specifically, concession contracts (such as those entered into by the National Park Service) for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public, as distinguished from the United States Government or its personnel, are exempt. Where concession contracts, however, include specifications for services other than those stated, such as the maintenance of government buildings and grounds, and the dissemination of information about government programs or facilities, those services are not exempt. Exemption of additional recreational or similar services under concession contract will be determined in the discretion of the Secretary on a case-by-case basis in accordance with 29 CFR 4.123 and section 4(b) of the Act. The exemption provided does not affect a concession contractor's obligation to comply with the labor standards provisions of any other statutes such as the Contract Work Hours and Safety Standards Act, the Davis-Bacon Act (40 U.S.C. 276 *et seq.*; see Part 5 of this title) and the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*). This clarification and limitation of the exemption previously granted (33 FR 9880, July 10, 1968) is necessary and proper in the public interest and is in accord with the remedial purpose of the Act.

(Secs. 2(a) and 4, 79 Stat. 1034, 1035; 41 U.S.C. 351, 353, and under 5 U.S.C. 301)

Signed at Washington, D.C., this 9th day of December 1980.

Donald Elisburg,

Assistant Secretary, Employment Standards Administration.

[FR Doc. 80-38735 Filed 12-11-80; 8:45 am]
BILLING CODE 4510-27-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits, Government-Furnished Headstone or Marker

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration is proposing to increase the monetary allowance payable in lieu of a Government-furnished headstone or marker from $53 to $59. The need for this action results from the fact that the actual cost of a Government-furnished headstone or marker increased from $53 to $59. The effect of this proposed amendment would be to permit payment of up to $59 in lieu of a Government-furnished headstone or marker.

DATES: Comments must be received on or before January 9, 1981. It is proposed to make this change effective October 1, 1980.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the above address during normal business hours until January 19, 1981.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: Under 38 CFR 3.1612 the Veterans Administration is authorized to pay a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of 38 CFR 1.631(a)(2) and (b). The amount of the allowance is the lesser of the actual cost of acquiring a non-Government headstone or marker (or adding identifying information to an existing marker) or the average actual cost of a Government-furnished headstone or marker for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was furnished (or identifying information added). (38 CFR 3.1612(e)(2).

The average actual cost to the Veterans Administration of headstones and markers furnished at Government expense for fiscal year 1980 (October 1, 1979 through September 30, 1980) is $59. Consequently, we are amending § 3.1612 to include this information.

The Veterans Administration does not consider this to be a significant proposal since no compliance burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 19, 1981. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: December 3, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 3.1612, paragraph (e)(2)(ii) is revised to read as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

* * * * *

(e) *Payment and amount of the allowance.* * * *

(2) The amount of the allowance payable is the lesser of the following:

* * * * *

(ii) The average actual cost, as determined by the Veterans Administration, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones and markers furnished at Government expense for fiscal year 1979 (October 1, 1978 through September 30, 1979) is $53 and $59 for fiscal year 1980 (October 1, 1979 through September 30, 1980).

* * * * *

[FR Doc. 80-38560 Filed 12-11-80; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Enclosures With Special Fourth-Class Matter

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend sections 136, 722, 723, 724 and 764 of the Domestic Mail Manual to permit mailers to enclose loose printed matter which would be mailable as third-class mail with qualifying materials mailed at the special fourth-class postage rates and to make several editorial changes. The Postal Service believes that the present limitations on enclosures in special fourth-class mail are no longer necessary because the tax subsidies for that subclass of mail have expired.

DATE: Comments must be received on or before January 11, 1981.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1640, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, Office of Mail Classification, at (202) 245-4749.

SUPPLEMENTARY INFORMATION: Current postal regulations restrict the types of materials which may be attached to or enclosed with qualifying matter mailed at the special fourth-class rates of postage (commonly known as the "book rate"). Of special significance is the prohibition against the inclusion of printed material advertising other products and/or services of the shipper. The restriction on such enclosures was based on the fact that, until recently, special fourth-class mail rates were kept artificially low through congressional subsidies (see 39 U.S.C. 3626).

Following the expiration of subsidies for special fourth-class mail and at the urging of special fourth-class mailers, the Postal Service decided to reexamine the retriction on enclosures. This issue is especially important because advertising materials may be included with matter qualifying for special fourth-class mail when such matter is shipped outside of the mails. The Joint Industry/Postal Service Task Force on Alternative Delivery Services studied the enclosure issue and recommended that the Postal Service allow mailers of special fourth-class matter to enclose material advertising products and/or services of the shipper to help the Postal Service retain mail volume and in some instances regain lost volume. The Postal

Service agrees with this recommendation and is proposing an expansion of the allowable enclosures that may be sent with special fourth-class mail. If the proposed rule is adopted, a shipper mailing qualifying special fourth-class matter could also enclose any loose printed matter which would otherwise qualify for third-class mail. Items required to be sent as First-Class Mail, items weighing at least one pound, or merchandise may not be mailed with special fourth-class matter without payment of additional postage at the appropriate rate for the item.

This proposed expansion of allowable enclosures does not apply to library rate fourth-class mail because its rates are still supported by congressional subsidies.

Corresponding editorial changes to sections 136, 722 and 723 are also proposed to fully implement the changes to the special fourth-class enclosure provisions and to correct prior section numbering errors.

The following sectional analysis describes the revisions of the Domestic Mail Manual which will be made if this proposed rule is adopted:

Section 136.322 will be revised to provide that postage may be paid at the applicable fourth-class rate on enclosures permitted by section 725.5 and proposed sections 722.3, 723.3 and 724.3.

Section 722 will be revised by renumbering present 722.23 as section 722.3. This change will clearly show that the subject enclosure provision applies to all parcel post mail and not just bulk parcel post.

Section 723 will be revised by renumbering present section 723.23 as section 723.3 This change will clearly show that the subject enclosure provision applies to all bound printed matter and not just bulk bound printed matter.

Section 724.1 will be revised to

(1) Delete the provision for an identification statement now specified with each category of special fourth-class mail. The requirement for an identification statement appears in proposed section 764.1.

(2) Revise section 724.1e to delete the reference to incidental announcements of recordings and to reflect the Postal Service's acceptance of all types of video recordings as qualifying sound recordings.

Section 724.3 will be revised to allow, in addition to the specific enclosures and additions currently listed in section 721.2, any loose printed matter which would be mailable as third-class mail to be included with any qualifying material mailed at the special fourth-class rates.

Section 764.1 will be revised to specify the appropriate markings which must be placed on special fourth-class matter.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1.

Part 136—Mixed Classes of Mail

1. In part 136, amend section 136.322 to read as follows: .322 Third-Class Enclosures. Third-class mail may be enclosed in any fourth-class parcel mailed at the rates in 711 or mailed free under 135. Postage at the applicable third-class rate must be paid on such matter except as provided in 721.2, 722.3, 723.3, 724.3, and 725.5.

Part 722—What May Be Mailed at Parcel Post Rates

2. In part 722, renumber section 722.23 as section 722.3.

Part 723—What May Be Mailed at Bound Printed Matter Rates

3. In part 723, renumber section 723.23 as section 723.3.

Part 724—What May Be Mailed at Special Fourth-Class Rates

4. In part 724, amend section 724.1 to read as follows: 724.1 General Description. Only the following specifically described articles may be mailed at the special fourth-class rates (see 711.3):

a. Books, including books issued to supplement other books, of 24 pages or more (at least 22 of which are printed) consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books. Advertising includes paid advertising and the publishers' own advertising in display, classified, or editorial style.

b. 16-millimeter or narrower width films (which must be positive prints in final form for viewing) and catalogs of such films of 24 pages or more (at least 22 of which are printed). Films and film catalogs sent to or from commercial theaters do not qualify for the special fourth-class rate.

c. Printed music whether in bound form or in sheet form.

d. Printed objective test materials and their accessories used by or in behalf of educational institutions to test ability, aptitude, achievement, interests, and other mental and personal qualities with or without answers, test scores, or identifying information recorded thereon in writing or by mark.

e. Sound recordings and guides or scripts prepared solely for use with such recordings.

Note.—Video recordings and player piano rolls are classified as sound recordings.

f. Playscripts and manuscripts for books, periodicals, and music.

g. Printed educational reference charts, including but not limited to:

(1) Mathematical tables,

(2) botanical tables,

(3) zoological tables, and

(4) maps produced primarily for educational reference purposes.

h. Looseleaf pages, and binders thereof, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students.

5. In part 724, amend section 724.3 to read as follows: 724.3 Enclosures.

.31 Specific Items. The specific enclosures and additions listed in 721.2 may be included with any qualifying material mailed at the special fourth class rates in 711.3.

.32 Loose Enclosures. Any printed matter which would be mailable as third-class mail may be included loose with any qualifying material mailed at the special fourth-class rates in 711.3.

.33 Bound Enclosures in Books.

.331 Envelopes. Either one envelope or one addressed post card may be bound into the pages of a book mailed at the special rates in 711.3. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 724.332.

.332 Order Forms. One order form may be bound into the pages of a book mailed at the special rates in 711.3. If also serving as an evelope or post card, the order form may be in addition to the envelope or card permitted by 724.331.

.333 Announcements of Books. Books mailed at the special fourth-class rates in 711.3 may also contain announcements of books appearing as book pages. These announcements of books must be incidental, and must be exclusively devoted to books. They may not contain extraneous advertising of book related materials or services. *Exception:* Announcements may fully describe the conditions and methods of ordering books (such as by membership in book clubs) and may contain ordering instructions for use with a separate order form.

.334 Order Forms with Announcements. No more than three of the announcements permitted by 724.333 may contain as part of their format a single order form, which may also serve

as a post card. The order forms permitted with announcements of books are in addition to, and not in lieu of, order forms which may be enclosed by virtue of any other provisions of this section.

Note.—This provision is applicable only to books mailed at the special fourth-class rate. Such order forms are not permitted in books mailed at the library rate.

Part 764—Preparation of Special Fourth-Class Presort Rate Mail

6. In part 764, amend the title of 764 to read "Preparation of Special Fourth-Class Mail," amend the title of 764.2 to read "Sack Labeling Requirements for Presort Rate Mail," amend the title of 764.3 to read "Container or Pallet Labeling Requirements for Presort Rate Mail," and amend 764.1 to read as follows: 764.1 Marking.

.11 Single Piece Rate. Each piece mailed at a special fourth-class rate in 711.3, must be legibly marked *Special Fourth-Class Rate* on the address side. This marking must be incorporated as Part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit indicia, meter strip or postage stamps.

.12 Presorted Special Fourth-Class Rate. Each piece mailed at the presorted special fourth-class rate in 711.3 must be legibly marked *Presorted Special Fourth-Class Rate* on the address side. This marking must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit indicia.

An amendment to 39 CFR 111.3 will be published if this proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-38544 Filed 12-11-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 1699-5]

Approval and Promulgation of State Implementation Plans; Nonattainment Area Plans for Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: The purpose of this notice is to propose to modify the conditional approval for the Pueblo total suspended particulate (TSP) portion of the Colorado State Implementation Plan (SIP). While EPA's initial conditional approval (44 FR 57401 and 45 FR 7801) required a submittal of a 24-hour TSP standard attainment demonstration by February 1, 1980, additional deficiencies in the Pueblo plan have been discovered. Today, EPA is proposing to modify that conditional approval to require submission of an annual TSP standard demonstration based on allowable emissions and a comlete inventory, provisions for enforceable reasonably available control technology (RACT) on all exiting sources, and enforceable compliance schedules for all affected sources.

In order to allow the state sufficient time to remedy these deficiencies, EPA is proposing a July 1, 1981, deadline for submittal of these materials. On October 7, 1980, the Environmental Protection Agency (EPA) received a schedule from the Colorado Air Quality Control Commission to review and repromulgate Regulation No. 1, "Emission Control Regulations for Particulates, smokes, and sulfur Oxides for the State of Colorado" as it pertains to RACT for the iron and steel indutry as well as a commitment to submit necessary SIP revisions by July 1, 1981.

This notice solicits comments on the proposed modification of the conditional approval and the deadlines specified in this notice.

DATE: Comments are due by January 12, 1981.

ADDRESSES: Copies of the SIP and any comments received are available at the following addresses for inspection:

Environmental Protection Agency, Air Programs Branch, Region VIII, Suite 200, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), Mail Code PM-213, 401 M Street SW, Washington, D.C. 20460

Written comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471

FOR FURTHER INFORMATION CONTACT: Eliot Cooper, Air Programs Branch, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711

SUPPLEMENTARY INFORMATION:

Background

In the October 5, 1979, final rulemaking on the Colorado SIP (44 FR 54701), EPA conditionally approved the Pueblo nonattainment area plan. The SIP contained commitments for nontraditional control measures for road paving in the city, control of emissions from construction site activities, demonstration projects to determine the cost effectiveness of road paving outside the city, control of mud and dirt carryout sources, paving alleys in the city, and an improved street cleaning program. While these commitments address the nontraditional sources, no further controls were required at the major traditional sources in Pueblo.

EPA approved the Pueblo SIP on the condition that a 24-hour TSP standard attainment demonstration be submitted to EPA by January 1, 1980. Although EPA did not cite this deficiency in the Pueblo plan in its initial May 11, 1979, Federal Register proposal (44 FR 27691), public comment on the Pueblo plan brought this inadequacy in the plan to EPA's attention. EPA solicited comments (44 FR 57427) on the acceptability of the January 1, 1980, deadline. In the February 5, 1980, final rulemaking (45 Fr 7801), EPA extended the January 1, 1980, deadline to February 1, 1980, due to unforeseen delays in the State's modeling analysis.

In the October 5, 1979, rulemaking, EPA also stated that if attainment could not be demonstrated with existing controls, EPA would require that additional controls be applied to sources at CF&I Steel to demonstrate attainment and maintenance of standards as expeditiously as practicable. EPA is now requiring these additional controls.

EPA had set the February 1, 1980, deadline and considered it reasonable for completing the 24-hour TSP standard analysis. The initial conditional approval deadline was not intended to provide sufficient time to prepare a control strategy, should the modeling analysis indicate violations of the 24-hour standard. On June 2, 1980, the Colorado Air Pollution Control Division submitted a 24-hour TSP standard analysis showing violations of the standard.

EPA has been working with the State for several months to determine the most efficient and effective method for remedying the deficiencies which were discovered as a result of the States analysis. On October 7, 1980, EPA received a commitment and schedule from the Colorado Air Quality Control Commission to develop the necessary control strategy by July 1, 1981.

The Commission's October 7, 1980, commitment has satisfied EPA that the State will take necessary action to promulgate an approvable plan for Pueblo by July 1, 1981. In addition, the 1981 Colorado State EPA Agreement commits the Colorado Air Pollution Control Division to submit the revised attainment demonstration for Pueblo.

Discussion

Part D of the Clean Air Act requries SIPs to include strategies and regulations adequate to insure attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982, and, in the interim, to provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT) on all stationary sources. EPA has defined RACT as: The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[1] Therefore, depending on site specific considerations, such as geographic constraints, RACT can differ for similar sources.

U.S. EPA believes that the burden of demonstrating that a regulation represents RACT rests on the state. In reviewing a proposed SIP revision to determine its adequacy, U.S. EPA can verify independently that the provisions in the state plan represent RACT. Although U. S. EPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. This data is available for review in the rulemaking docket on this notice at the addresses cited above. Where a state proposes regulations which are not technically supported by U. S. EPA's data, the state must submit adequate data supporting its proposal as representing RACT.

Proposed Action

Because of the additional deficiencies discovered after February 1, 1980, and based on the State's commitment to submit the necessary SIP revisions, EPA is proposing to modify the conditional approval and establish a July 1, 1981, deadline. EPA solicits public comment on the deficiencies identified below and the appropriateness of the conditions and deadlines.

Portions of Regulation 1, including "Emission Standards for Existing Iron & Steel Plant Operations," which do not provide for enforceable RACT limitations for certain processes covered, must be changed, and additional provisions must be adopted requiring RACT for other processes not addressed in the preent iron and steel regulation. Since an attainment plan will require the adoption of more stringent regulations at the CF&I Steel Corporation mill, EPA has accepted the October 7, 1980, commitment by the Commission to adopt RACT at CF&I Steel by no later than July 1, 1981.

Specifically the following deficiencies in the Colorado submittal need to be addressed.

1. Fugitive Emissions and Regulation 1.I.A.1

Many steel mill processes generate fugitive emissions whose effective regulation requires that such emissions be contained or captured in a hooding device and then filtered (gas cleaned) to a level appropriate for release to the outdoor atmosphere. Limitations on both the amount of emissions which can escape uncaptured and on the filtered outlet gas stream need to be established for such emitting processes. Since emissions which usually leave iron and steel facilities by open roofs or other building openings do not lend themselves to mass emission testing, U.S. EPA believes that an opacity limitation on such particulate emissions is necessary for their effective regulation.

Colorado has had such a federally approved rule, Regulation 1.I.A.1, in its State Implementation Plan since 1972. This regulation applies broadly to all emissions including process fugitive emissions and, in conjunction with appropriate stack mass emissions limitations, represents RACT. Until the submission of Regulation 1.IV. in 1979, the Colorado Health Department's Division of Air Quality and the Colorado Attorney General's office have argued (before the Colorado Air Pollution Variance Board, October 1975, in regard to CF&I coke plant pushing) that Regulation 1.I.A.1. did apply to fugitive process emissions. In Regulation 1.IV of its 1979 SIP submission, Colorado has provided specific emissions limitations for certain steel mill facilities (BOF, blast furnace, and certain coke oven emissions).

However, for both these and other (unaddressed) processes there is no specific language in the submission which states whether Regulation 1.I.A.1 or Regulation 1.IV. is to be the exclusive regulation for steel mill emission points with respect to the containment or capture of process fugitive emissions. Other than for the coke plant, there are no other provisions of the Colorado submission requiring capture or containment of process fugitive emissions, so that if Regulation 1.I.A.1. is no longer intended to apply to emissions from blast furnaces, steel making shops, and sinter plants, then the 1979 submission does not represent RACT. Therefore, the Commission needs to clarify that Regulation 1.I.A.1. applies to fugitive process emissions from such facilities, or if it does not apply, to adopt suitable alternatives.

2. Basic Oxygen Furnace Shops

EPA interprets the Colorado submission, Regulation 1.IV.C., to be a mass emissions limitation on the outlet particulate concentration from the primary gas cleaning device at BOF facilities. In order to satisfy the RACT stringency requirement, the Commission needs to adopt and submit, in addition, limitations on the outlet particulate concentration and opacity from other gas cleaning devices associated with BOF shops. U.S. EPA considers that the existing secondary gas cleaning system operated at the only BOF shop in Colorado, which collects fumes from both steel making and hot metal transfer operations, is capable of satisfying the requirement of RACT stringency test, but believes adequate mass and opacity emissions limitations, and methods for evaluating compliance, need to be adopted and submitted to ensure its proper operation.

Regulation 1.IV.C. does not explicitly mention the control of hot metal transfer station mass emissions, which are usually controlled by hooding and fabric filteration of such fumes. The only potentially applicable regulation (and to which such emissions are currently subject) is Regulation 1.II.C., which does not require full operation of existing equipment in order to be met. U.S. EPA recognizes the complexity of the regulatory problem because such hot metal transfer emissions may be ducted to fabric filters which also serve other BOF shop emissions points, and U.S. EPA therefore would approve overall limitations on mass and opacity emissions from each BOF shop gas cleaner.

In addition, for the Colorado primary device mass emission rule to be enforceable an acceptable definition of the phrase "production cycle" used in Regulation 1.II.C. must be provided. Alternatively, a specification of the exact portions of the process to be tested when evaluating compliance with the limitation needs to be submitted.

If the Commission states that Regulation 1.I.A.1. does not apply to uncaptured BOF shop emissions, then

[1] EPA articulated its definition of RACT in a memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I–X, on "Guidance for Determining Acceptabilty of SIP Regulations in Non-attainment Areas." Section 1.a (December 9, 1976), reprinted in (976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication Workshop on Requirements for Nonattainment Area Plans-Compilation of Presentations 154 (OAQPS No. 1.2–103, revised edition April 1976).

uncaptured BOF process fugitive emissions need to be covered by an alternative opacity standard that satisfies the RACT stringency requirement.

3. Coke Pushing Emissions

Regulation 1.IV.A.2. contains standards for particulate and opacity emissions for coke oven pushing control devices. To be enforceable and to represent RACT stringency, these standards must apply separately to each pushing emissions control stack. The Commission needs to clarify that these standards apply to each stack individually.

The stated methods for testing particulate emissions from such stacks cannot be implemented entirely due to physical and operational constraints in the single Colorado coke plant now operating. A testing protocol acceptable to EPA needs to be adopted and submitted by Colorado. Examples of such protocols have been placed in this rulemaking docket and are available at U.S. EPA Region VIII.

4. Blast Furnace Casthouse Emissions

The rule which Colorado submitted in 1979, Regulation 1.IV., does not contain an opacity regulation for casthouse emissions. The Commission needs to clarify, for the aforementioned reasons, whether Regulation 1.I.A.1. still applies to such emissions. If it does not, then the Commission needs to adopt and submit an adequate opacity limitation for uncaptured or uncontained blast furnace casthouse particulate emissions, specifying averaging times and acceptable procedures for evaluating compliance with such limitations, applicable to each casthouse separately.

The only mass emission regulation governing gas cleaning devices installed, or which may be installed in conjunction with the capture of casthouse particulate emissions, appears to be Regulation 1.II.C., which does not represent RACT level stringency. U.S. EPA believes that fabric filters are capable of cleaning blast furnace casthouse emissions to concentrations less than 0.010 gr/dscf. In order to satisfy the RACT requirement, the Commission needs to adopt and submit adequate mass and opacity limitations applicable to control devices for blast furnace casthouse emissions.

5. Sinter Plant Emissions

The sinter plant windbox and discharge end emission points are currently subject to Regulation 1.II.C., which does not represent RACT. Based on information in the rulemaking docket, U.S. EPA believes that the RACT requirement would be satisfied by a limitation on particulate concentration of windbox emissions of between 0.020 and 0.030 gr/dscf and a limitation on discharge end outlet particulate concentration no greater than 0.020 gr/dscf. In order to satisfy the RACT requirement, and to be enforceable, the Commission needs to adopt and submit RACT level mass and opacity limitations for each of these emission points. Such limitations should be clear as to specified averaging times and acceptable procedures for evaluating compliance with each limitation.

In addition sinter plant fugitive emissions need to be regulated by an effective opacity limitation. The Commission needs to clarify whether Regulation 1.I.A.1. applies to sinter plants and, if it does not, to adopt adequate opacity limitations for such emissions that satisfy the RACT stringency requirement.

6. Coke Quenching

There is currently no specific limitation submitted to U.S. EPA which addresses the coke quenching process, and the Commission needs to adopt such a limitation to satisfy Part D. (Regulation 1.II.C. may apply to coke quenching towers in Colorado. However, U.S. EPA believes that compliance with Regulation 1.II.C. can be achieved without the application of RACT level controls on the quality of the water used for coke quenching and therefore would not satisfy RACT requirements.)

U.S. EPA believes there is a linear relationship between the quality of water used to quench incandescent coke and the quantity of emissions generated by the quenching process. Empirical data in the rulemaking docket on this notice demonstrates that the quantity of total dissolved solids (TDS) in water actually used for quenching is approximately two times the quantity of TDS in the make-up water. EPA believes that a limitation restricting the TDS concentration in quench water to no greater than 1500 mg/1, including a specified averaging time and acceptable procedures for evaluating compliance, in conjunction with the installation and maintenance of baffles which cover the entire horizontal cross section of each tower would satisfy the RACT requirement.

7. Electric Arc Furnace Emissions

If Regulation 1.I.A.1. does not apply to fugitive process emissions from electric arc furnaces, then the Colorado submission does not meet the RACT requirement for the capture or containment of such emissions, and the Commission needs to adopt and submit an opacity limitation which is of RACT level stringency. Such limitations need to apply to uncaptured emissions resulting from the charging, tapping, and oxygen blow periods of the production cycle.

In addition the State must demonstrate that for every source of particulate emissions in the Pueblo nonattainment area, including both stack and fugitive emissions, that enforceable RACT requirements and acceptable particulate and opacity testing procedures have been adopted.

Also the restrictions for "unenclosed" fugitive dust (1.II.D.2.) in conjunction with the definition of "fugitive dust" (Common Provisions) may leave certain emissions unregulated. The Commission therefore needs to calrify which emissions are covered by 1.I.A.1 and which emissions are covered by the fugitive dust opacity Regulation (1.II.D.2.).

A review of a request to redesignate the Pueblo area as attainment under Section 107 of the Act also disclosed that the modeling demonstration for annual standard attainment had the following deficiencies:

1. Actual and not allowable emissions were modeled.

2. The model was calibrated to CF&I Steel's monitoring network. These data have never been subject to review for quality assurance. Also the lack of spatial resolution caused by close proximity of the monitors may make the calibration invalid.

3. The modeling took credit for clean water quenching of coke at CF&I Steel without requiring the necessary reduction of the total dissolved solids content of their quench water.

4. Emissions from many sources were not included, i.e., Comanche Power Plant's coal pile and CF&I Steel's plant roads and storage piles. Therefore, in addition to the 24-hour attainment modeling demonstration a revised annual demonstration is also required by July 1, 1981.

In addition, EPA's conditional approval will be based on the Commission's repromulgating Regulation No. 1 to satisfy the requirements mentioned above in accordance with the following schedule:

1. The Commission will consider and adopt for public hearing any changes or additions to Regulation No. 1 by February 15, 1981.

2. The proposed regulations will be published in the Colorado Register by March 10, 1981.

3. Public hearing will be held by May 14, 1981.

4. Regulations will be approved with an effective date no later than July 1, 1981.

These proposed interim milestones are based on the schedule submitted by the State on October 7, 1980.

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

This notice of rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: November 3, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-38587 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 52

[A-5-FRL 1699-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO2) as it applies to the Harshaw Chemical Company's Harvard-Denison plant in Cleveland, Ohio. The proposed revision would change Harshaw's existing SO2 emission limit of 0.5 lb. per million BTU to 1.0 lb. per million BTU and, therefore, allow the use of residual oil as a boiler fuel for Harshaw's three boilers. In addition, this revision seeks to correct data base errors in the original modeling analyses of Harshaw performed by the USEPA in establishing the SO2 SIP for the State of Ohio (41 FR 36324). The purpose of this Notice is to invite public comments on USEPA's proposed approval of the revision to the Ohio SIP.

DATE: A 30 day public comment period is provided to submit comments on the proposed revision. Comments must be received on or before January 12, 1981. Requests for a public hearing on this revision must be received no later than December 29, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The docket (Number 5A-80-13) for the revision is available for inspection and copying during normal business hours at the above address and at the Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, telephone (312) 886-6053.

SUPPLEMENTARY INFORMATION: The Harshaw Chemical Company's Harvard-Denison plant is located in the portion of Cuyahoga County that has been designated by the USEPA as a SO2 primary nonattainment area (43 FR 45993; 45 FR 8011).

On August 27, 1976 (41 FR 36324), the USEPA promulgated regulations establishing the SIP for control of sulfur dioxide for the State of Ohio. The regulations for Cuyahoga County were amended on November 30, 1976 (41 FR 52455). The three oil-fired boilers at Harshaw's Harvard-Denison plant were given a boiler emission limitation of 0.5 lb. per million BTU. The emission limitation was based on detailed site-specific RAM-urban modeling.

On July 12, 1979, the Harshaw Chemical Company petitioned USEPA for a revision of the Ohio SIP for SO2 as it applies to the boiler emissions at its Harvard-Denison plant in Cleveland, Ohio. Harshaw requests that its boiler emission limit be raised to 1.0 lb. per million BTU to permit the use of residual oil as a boiler. Although this request doubles the allowable emission limit, the allowable SO2 emission rate is increased only slightly. To understand this, please note that the emission rate equals the emission limit times the boilers' rated capacity. The total rated capacity in the USEPA's emissions inventory was 199 MMBTU/hr. Application of the correct, lower rated capacity (115.16 MMBTU/hr) serves to offset partially the increased emission limit. Overall, the allowable emission rate under the revision (at 1.0 lb./MMBTU and 115.16 MMBTU/hr.) is only 68 tons per year greater than the allowable emission rate in the existing SIP (at 0.5 lbs./MMBTU and 199 MMBTU/hr.).

As for actual SO2 emissions, the status quo fuel is approximately 1.0 lb./MMBTU. Since no increase in source capacity of hours of operation is expected, no increase in current actual emissions is expected. Thus, the revision is expected to result in a slight increase in allowable SO2 emission levels but should not cause any change in the current actual emissions.

To support the revision, Harshaw submitted technical documentation demonstrating that the proposed revision does not substantially alter Harshaw's interaction with the other sources in the nonattainment area. To supplement the Harshaw modeling, the USEPA performed an analysis of the Harshaw source itself to determine the effect of the proposed revision relative to the existing SIP. USEPA's analysis demonstrated that the proposed revision will not cause a violation of the 3-hour secondary standard. Harshaw's analysis showed that the revision would protect the annual primary standard. With regard to the 24-hour primary standard, the Harshaw modeling and the USEPA modeling were combined to show that the revision will protect the 24-hour standard. The USEPA modeling indicated that the revision would result in significant increases in 24-hour Harshaw impacts. The Harshaw modeling accounted for these significant increases in the interaction with other sources and showed that Harshaw does not contribute significantly to any violations at the proposed emission levels. Thus, based upon both analyses, USEPA determined that the proposed revision will not cause a violation of the 24-hour primary standard.

Since the operation of Harshaw Chemical Company's Harvard-Denison plant at the proposed SO2 emission limit of 1.0 lb. per million BTU will not threaten or prevent the attainment and maintenance of the SO2 National Ambient Air Quality Standards, USEPA proposes to approve this revision to the Ohio SO2 SIP.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether USEPA will approve the revision. After the public comment period, the Administrator of USEPA will publish in the Federal Register the Agency's final action on the proposed SIP revision.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044,

"Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedure requirements of Executive Order 12044.

This notice of proposed rulemaking is published under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: November 13, 1980.

John McGuire,

Regional Administrator.

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

Subpart KK—Ohio

1. Section 52.1881 is amended by adding new paragraph (b)(23)(vi)(F).

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County, * * *

* * * * *

(vi) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of 1.00 pounds of sulfur dioxide per million BTU of actual heat input:

Company	Boiler identification
(A) Cleveland Electric Illuminating Co., Hamilton Ave. Steam Plant.	All Boilers.
(B) Republic Steel	234, 1, 2, A, B, and C.
(C) Addressograph	1, 2, and 3.
(D) General Electric Co.	1 and 2.
(E) Jones and Laughlin Steel	30.
(F) Harshaw Chemical	7, 8, and 9.

* * * * *

2. Section 52.1881 (b)(23)(vii) is revised to read as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County, * * *

* * * * *

(vii) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of 0.50 pounds of sulfur dioxide per million BTU of actual heat input:

Company	Boiler identification
(A) Jones & Laughlin Steel	22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35.
(B) U.S. Steel, Cuyahoga-Lorain works.	1, 2, 3, 4, 5, and 6.
(C) DuPont	18.
(D) Standard Oil of Ohio	7, 9, and 10.

[FR Doc. 80-38582 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

(A-3-FRL 1699-6)

Proposed Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 13, 1980, the governor of West Virginia submitted several revisions of the West Virginia State Implementation Plan (SIP) to EPA for approval. These revisions consist of:

1. Amended Regulation VI—"To prevent and Control Air Pollution from Combustin of Refuse,"
2. Amended Regulation VII—"To Prevent and Control Particulate Air Pollution from Manufacturing Process Operations," and
3. "Identification and Analysis of the Impact of the 1979 West Virginia State implementation Plan."

EPA is proposing approval of these revisions in this notice. EPA solicits public comment on whether final approval of the revisions should be given.

DATE: Comments must be submitted on or before January 12, 1981.

ADDRESSES: Copies of the proposed SIP revisions are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Patricia Sheridan

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, Attn: Carl Beard II, Director

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revisions submitted on or before January 12, 1981 will be considered and should be directed to: Mr. Glenn Hanson, Chief, PA., WVA., DEL. Section, Air, Toxics and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, Attn: AH300cWV.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers (3AH12), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone Number 215-597-8309.

SUPPLEMENTARY INFORMATION: On June 13, 1980, John D. Rockefeller IV, Governor of the State of West Virginia, submitted several revisions of the West Virginia State Implementation Plan (SIP) to EPA for approval. These revisions consist of the following:

1. An amended version of Regulation VI, a regulation which controls air pollution from the combustion of refuse,
2. An amended version of Regulation VII, a regulation which controls particulate air pollution from manufacturing process operations, and
3. A document entitled "Identification and Analysis of the Impact of the 1979 West Virginia State Implementation Plan."

The Governor's submittal was accompanied by certification, signed by Carl G. Beard II, Director of the West Virginia Air Pollution Control Commission, stating that West Virginia adhered to both the U.S. EPA's public hearing requirements and the requirements of the West Virginia Code during the process of adopting the revisions.

I. Amended Regulation VI

West Virginia's amended version of Regulation VI differs in several respects from the version of the regulation now included in the West Virginia SIP. One change is the addition of a new section informing persons seeking to construct, modify, or relocate any incinerator of the need to obtain a permit in accordance with the provisions of Section Two Chapter Sixteen, Article Twenty, Paragraph 11b of the Code of West Virginia, as amended, and Regulation XIII. Another change in Regulation VI is the modification of Section 4 to require incinerators of 200 lbs./hour capcity or less to meet a more stringent emission limitation. The new emission limitation for these incinerators will be set by the formula:

Emissions (lbs./hour) = 5.43 x Incinerator Capacity (tons/hour)

In addition to the above changes, West Virginia has chosen to completely revise Section 5 of the regulation, which deals with registration requirements. As revised, Section 5 reads, "within Thirty

(30) days after the effective date of this regulation, all persons owning and/or operating incinerators within the State shall have registered with the Commission, on forms made available by the Director, the name of the person, company or corporation operating the plant, the address, location, county, ownership (lessee, lessor), the principal officer of the company and any such other reasonable information as the Director may require including but not limited to make, model, capacity, operating temperature, fuel used, stack parameters and description of air pollution control equipment."

West Virginia has also made several other changes in Regulation VI. West Virginia has expanded Section 4 by adding a sentence stating that "in the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont and those portions of Union and Winfield Magisterial Districts West of I-79 (Marion County), no person shall cause, suffer, allow or permit the operation of any incinerator during the period starting one (1) hour before sunset and extending until two (2) hours after sunrise." The State goes on to qualify this by saying that "this Sub-Section shall not apply to the operation of pathological, industrial, municipal or sewage sludge incinerators."

West Virginia has also modified Section 8 of the regulation, which specifies when variances may be granted. The State has established a new Section 8.02, which replaces the present Sections 8.02 and 8.03. The new Section 8.02 reads, "Due to unavoidable malfunction of equipment, emissions exceeding those provided for in this regulation may be permitted by the Director for periods not to exceed five (5) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. In cases of major equipment failure, additional time periods may be granted by the Commission provided a corrective program has been submitted by the owner or operator and approved by the Commission."

West Virginia has also added to Regulation VI a new section dealing with delayed compliance orders. This new section is called Section 9, and it reads, "the owner or operator of any incinerator in existence prior to the effective date of this regulation which does not meet the emission limitations as specified in Section 4.01 of this regulation shall develop and submit to the Commission, within such time as shall be allowed by the Commission, an acceptable compliance program for the attaining and maintaining of the emission limitations of this regulation as per Section 4.01. The compliance program shall be embodied in a consent order as provided Chapter 16, Article 20, Section 5 (17) of the Code of West Virginia, as amended. Any owner or operator who is currently subject to a consent order that provides for compliance after the effective date of this regulation shall be exempt from the requirements of this section."

Section 9 goes on to say, "In the event an owner or operator of an incinerator subject to this section fails to submit an acceptable control program within the time allowed, the Commission shall, by final order, determine a reasonable control program for the attaining and maintaining of the emission limitations of this regulation."

Another change West Virginia has made in Regulation VI is the modification of the first sentence in Section 7 on reports and testing. The new sentence reads "At such reasonable times as the Director may designate, the operator of any incinerator shall be required to conduct or have conducted stack tests to determine the particulate matter loading in exhaust gases when the Director has reason to believe, based on observed violations, that the stack emission limitation is being violated or for compliance testing."

West Virginia has also added several new definitions to Section 2 of Regulation 6, which contains definitions of terms used in the regulation. The State has added definitions of "Director," "Pathological Waste Incinerator," "Industrial Waste Incinerator," "Opacity," and "Sewage Sludge Incinerator."

The final change in Regulation 6 is in Section 3 of the Regulation, which deals with open burning. West Virginia has modified this section to permit fires to be set for the purpose of training members of volunteer fire departments, provided that approval to conduct such burning is received from the Director or his duly authorized representative.

II. Amended Regulation VII

West Virginia has revised Regulation VII in a number or respects. The State's revisions deal mainly with requirements for registration, permits, and duplicate source operations. It should be noted that West Virginia did not submit these revisions to correct the deficiencies in Reg VII which EPA noted in the notice that conditionally approved West Virginia's plans for attaining air quality standards, 45 Fed. Reg. 54042, August 14, 1980. West Virginia will revise Regulation VII again at a later date to correct the deficiencies EPA noted in that notice.

West Virginia's revisions modify Regulation VII's 1st, 2nd, 3rd, and 5th Sections. In addition, they add a new section on permit requirements.

Section 1 defines the terms used in the regulation. One change West Virginia has made in Section 1 is the addition of a definition of opacity. West Virginia's new definition of opacity is "the degree to which emissions reduce the transmission of light and obscure the view of an object in the background."

Another change West Virginia has made in Section 1 is the redefinition of "standard conditions." West Virginia has changed this definition to "a temperature of 68° F and a pressure of 29.92 inches of mercury column," from "a temperature of 60° F and a pressure of 29.92 inches of mercury column." One other change West Virginia has made in Section 1 is the deletion of the definition of "Fugitive Particulate Matter Control System."

The final change West Virginia has made in Section 1 is the midification of the definition of "Source Operation Type." West Virginia has changed the definition of source operation types "b" and "c." West Virginia now says is Section 1.22b that "type 'b' shall mean any metallurgical manufacturing process source operation. Gray iron cupolas located in the counties of Brooks, Hancock, Ohio, Marshall, and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), and Union and Winfield (Marion County west of I-79) shall be classified as type 'b' source operations." West Virginia says further that "Type 'c' shall mean any wet cement manufacturing process source operation which is used for the primary purpose of calcination. Gray iron capalas located in the areas of the State other than those defined in Sub-Section 1.22(b) shall be classified as type 'c' source operation."

West Virginia also modified Section 2 of the regulation. The original version of this section discussed prohibited smoke emissions. The revised version discusses prohibited smoke and/or particulate matter emissions. The replacement of the word "smoke" with the phrase "smoke and/or particulate matter" is the only change in Section 2.

In Section 3, West Virginia has modified the formula used to calculate the total allowable emission rate if a duplicate soruce operation that meets the requirements of the regulation is expanded, or if a source operation that meets the requirements of the regulation

is expanded to from a duplicate source operation. The new formula is:

$$R_e = \left[\frac{W_e}{W_{et}}\right] R_{et}$$

Where,

R_e is the total allowable emission rate in pounds per hour for the new expanded portion of the duplicate source operation;

W_{et} is the total operating process weight rate in pounds per hour of the source opteation or duplicate source operation prior to expansion plus the operating process weight rate of the new expanded portion;

R_{et} is the allowable emission rate in pounds per hour found in Sub-Section 3.01 opposite the process weight rate, W_{et}

W_e is the operating process weight rate in pounds per hour for the new expanded portions.

West Virginia has completely revised Section 5 of Regulation VII. The new language in Section 5 is "After the effective date of this regulation all persons owning and/or operating an existing manufacturing process source operation not previously registered shall register such source operation with the Commission. The information required for registration shall be determined by the Director, and shall be provided in the manner specified by the Director."

West Virginia has also added a new Section 6, entitled ermits, to Regulation VII. This new section reads, "No person shall construct, modify, or relocate any manufacturing process source operation without first obtaining a permit in accordance with the provisions of Section Two, Chapter Sixteen, Article Twenty, Paragraph 11b of the Code of West Virginia, as amended, and Regulation XIII of this agency."

The addition of Section 6 on permits made it necessary for West Virginia to renumber the following sections. These sections are now numbered as follows: Section 7, Reports and Testing; Section 8, Compliance Programs and Schedules; Section 9, Variance; Section 10, Exemptions; and Section 11, Effective Date.

Analysis of SIP's Impact

The Clean Air Act amendments of 1977 required States to submit revised plans for attaining air quality standards to EPA by January 1, 1979. West Virginia submitted such a plan to EPA, and EPA approved it, with certain conditions, in a notice published in the Federal Register on August 14, 1980, 45 FR 54042.

West Virginia's plan did not include an analysis of its air quality, health, welfare, economic, energy, and social effects, as required by Section 172(b)(9) of the Clean Air Act. Accordingly, EPA required, as a condition for approval of the plan, that West Virginia submit such an analysis. EPA also required West Virginia to submit a summary of the public comments on the analysis.

On June 13, 1980, West Virginia submitted an analysis of its plan's effects to EPA, and asked EPA to approve the incorporation of this analysis into the West Virginia SIP. West Virginia's submittal included no summary of public comments. EPA questioned West Virginia about this and West Virginia informed EPA that no comments had been made on the analysis. Today, EPA is proposing approval of West Virginia's analysis of effects.

West Virginia's analysis discussed the effects of the State's plans for attaining air quality standards. A separate section of the analysis is devoted to each pollutant.

In its analysis of its SO_2 plan's effects, West Virginia discusses the adverse effects SO_2 has on human health and welfare. The information the State presents is based on EPA's document *Air Quality Criteria for Sulfur Oxides*. West Virginia goes on to explain that the Sammis power plant in Stratton, Ohio, is the major contributor of SO_{2Cl} to West Virginia's SO_2 nonattainment area. New Manchester, West Virginia points out that Sammis was scheduled to be in compliance with Ohio's sulfur emission standards on October 19, 1979, but failed to meet this deadline. According to West Virginia, the health of approximately 9,500 people in West Virginia is adversely affected because of Sammis' failure to come into compliance. West Virginia also feels that its economy may be adversely affected by Sammis' failure to comply, since other sources of SO_2 that may want to expand or locate in the area could be prevented from doing so because of poor air quality.

West Virginia's analysis of its TSP plan's effects also begins by discussing health and walfare effects. In this case, the State's discussion is based on EPA's document *Air Quality Criteria for Particulate Matter*. After discussing health and walfare effects of TSP, West Virginia discusses its TSP plan's expected effects on air quality. West Virginia states that primary TSP standards will be attained by 1982 in West Virginia's Northern Panhandle and in Union and Winfield magisterial Districts of Marion County. West Virginia gives estimates of the emission reductions expected to occur in these areas and of the TSP levels expected by the end of 1982.

West Virginia says in the analysis that its strategy for attaining primary TSP standards in the Northern Panhandle is continued enforcement of existing rules and regulations and revision of Regulation III. The State expects that the change in Regulation III will affect three asphalt plants in the Northern Panhandle. West Virginia estimates that these plants will be required to spend about $130,000 for equipment and the same for installation.

West Virginia notes that it expects to revise Regulation VII in the near future. The State indicates that it does not expect this revision to have any economic impact, but says that it cannot fully evaluate its economic, energy, and social impact until it is completed.

West Virginia indicates that attainment of TSP standards in Winfield and Union Magisterial Districts of Marion County will occur as a result of the shutdown of The Sharon Steel coke plant. The State says that this plant is closing for reasons other than TSP attainment, and that, therefore, the economic and social impacts of its closing are not an effect of the SIP.

West Virginia begins its discussion of its ozone SIP's impact by reviewing the health and welfare effects of ozone. The information the State presents is based on the EPA publication *Air Quality Criteria For Ozone and Other Photochemcial Oxidants, Volume I.*

West Virginia's discussion of its ozone SIP's impact then turns to an analysis of the effect of the three regulations the State has adopted for controlling volatile organic compound (VOC) emissions. These three regulations control VOC emissions resulting from the processing and evaporation of petroleum products.

The first regulation discussed by West Virginia is Regulation XXI. This regulation requires the installation of floating roofs in gasoline storage tanks. West Virginia believes that Regulation XXI will affect 17 tanks at Pennzoils Elk Refinery and ten storage tanks at bulk gasoline terminals. West Virginia expects that controlling these tanks will reduce VOC emissions by 933 tons per year. The State estimates that the gasoline saved by installing floating roofs to prevent its evaporation will amount to approximately 128,000 gallons per year. The cost of installing the floating roofs should be recovered in less than a year by savings resulting from the recovery of this quantity of gasoline.

West Virginia next discusses Regulation XXIII. Regulation XXIII requires bulk gasoline terminals to limit VOC emsissions due to loading operations by installing a vapor

recovery or other type control system. West Virginia believes that seven terminals will be affected by this regulation. The cost of installing vapor recovery systems at these terminals should be recovered as a result of gasoline savings.

The final regulation discussed by West Virginia is Regulation XXIV. This regulation requires oil refineries to install pollution controls for vacuum producing systems, process unit turn arounds, and wastewater separators. West Virginia believes that Pennzoils Elk Refinery is the only source that will be affected by this regulation. According to West Virginia, the Elk Refinery already has contols for vacuum producing systems and for processing units. West Virginia indicates that this refinery does have one oil/water separator for which some additional control equipment will be required; however, West Virginia believes the cost of installing this equipment will be small.

Conclusion

The Administrator has tentatively decided to approve the revisions of the West Virginia SIP discussed above. The Administrator invites the public to submit comments on whether approval of the revisions is appropriate. Comments may be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of 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.

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

(42 U.S.C. 7401–642)

Dated: November 13, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-38586 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-499]

Table of Television Channel Allotments; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in BC Docket No. 80–499, Table of Television Channel Allotments. Action is taken in response to a request by the Association of Maximum Service Telecasters, Inc. ("MST"), which states that additional time is necessary for the evaluation of the proposals set forth in the FCC's Notice in this proceeding, 45 FR 72902, published November 3, 1980. Action taken herein also notifies the public of placement of documents released to MST under the Freedom of Information Act in public docket file.

DATES: Comments must be filed on or before April 15, 1981, and reply comments on or before June 15, 1981.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 653–7586.

SUPPLEMENTARY INFORMATION:

Adopted: December 1, 1980.

Released: December 2, 1980.

By the Chief, Policy and Rules Division.

1. On September 18, 1980, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 72902, published November 3, 1980, concerning the above-captioned proceeding. The *Notice* proposes significant changes in the Commission's rules governing the addition of new VHF television stations to the table of television channel allotments. The dates initially established for filing comment and reply comments were December 15, 1980, and February 15, 1981, respectively.

2. On November 14, 1980, the Association of Maximum Service Telecasters, Inc. ("MST"), filed a request under the Freedom of Information Act, 5 U.S.C. 552, for studies and analyses utilized by the Commission in formulating the proposals set forth in the *Notice*. Concurrently, MST moved that the period for filing comments in this proceding be extended until 120 days following the date on which the items specified in its Freedom of Information Act request are made available.[1]

3. In support of its motion, MST argues that the comment date initially established allowed too brief a period in which to evaluate and respond to the proposals made in the *Notice*. MST states that it has retained two consulting engineering firms to participate in its evaluation of those proposals. MST also states that the materials it has requested under the Freedom of Information Act are needed in order for it to conduct many of its planned studies.

4. In response to MST's Freedom of Information Act request, the Commission is releasing to MST and placing in the public docket file the documents listed in the Appendix to this *Order*. We are of the view that the public interest would be served by the grant of an extention of time sufficient for all interested parties to examine and evaluate these materials and take such other steps as they may deem appropriate to their full participation in this proceeding. Therefore, the Commission will, on its own motion, extend the comment date until April 15, 1981, a period in excess of that requested by MST. Additionally, we will extend the date for filing reply comments until June 15, 1981.

5. Accordingly, *It is Ordered*, that the motion for extention of time in BC Docket No. 80–499, filed by the Association of Maximum Service Telecaster, Inc., *Is Granted*, and the date for filing comments is *Hereby Extended* to and including April 15, 1981.

6. *It is further Ordered*, that the date for filing reply comments is *Hereby Extended* to and including June 15, 1981.

7. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Attachment A

1. *Report and Order* in Docket No. 20418, 45 FR 73059 (Nov. 4, 1980).
2. Public Notice (#31450), June 13, 1980—BC, *Television Channel Utilization.*
3. *Notice of Inquiry on Radio Frequency (RF) Intererence to Electronic Equipment*, 43 Fed. Reg. 56062 (November 30, 1978).
4. *Johnstown VHF Drop-In Study*, Report No. 3 (July 2, 1980), Wolfe P. Huber, EIC.
5. *Johnstown VHF Drop-In Study*, Report No. 2 (April 4, 1980), Wolfe P. Huber, EIC.

[1] Motions in support of MST's position have been filed by Harte-Hanks Communications, Inc. and Consumer Electronics Group of the Electronic Industries Association.

6. *Johnstown VHF Drop-In Study*, Report No. 1 (February 15, 1980), Wolfe P. Huber, EIC.

7. *Memorandum Opinion and Order and Notice of Proposed Rule Making* in Docket No. 20418, 63 F.C.C. 2d 840 (1977).

8. FCC *News* release #33937 (July 23, 1980—BC), *Television Network Profits Down—Owned and Operated Profits Up for 1979.*

9. Sales brochure for Winegard Antennas Systems (Form SCVV), Winegard Company, 3000 Kirkwood, Burlington, Iowa 52601.

10. Memorandum from Gilberto de Jesus to Ben. Perez, re request to FOB field installation, requesting search of files for interference complaints following institution of service by six short-spaced stations.

11. Index to Notice of Proposed Rule Making on Table of Television Channel Allotments.

12. Memorandum, to Ben. Perez, from Gordon Godfrey—(10 AM September 17, 1980) re: Current Utilization of VHF Television Spectrum.

13. Memorandum, to Ben. Perez, from Gordon Godfrey, re: Potential Conflicts Between LFS Allotments in the Top 100 Markets (i.e., less than the new minimum spacings (85, 89, 108, 111, etc.))

14. Article from *Broadcasting* (September 29, 1980), "Engineers see no big problems with low-power TV; reaction varies on VHF drop-ins. (Some say technical difficulties of squeezing in VHF stations are outweighted by social benefits)".

15. Memorandum, to Ben. Perez, from: Gordon Godfrey, re: Characteristics of Existing VHF Broadcast Services.

16. Article, *IEEE Transactions on Broadcasting*, Vol. BC-14, No. 4 (December 1968) "Understanding Television Grade A and B Service Contours".

17. Memorandum, To: Ben. Perez, from Gordon Godfrey, Re: Impact of VHF Drop-In Proposal on Vacant Educational Allotments.

18. Memorandum, To: Ben. Perez, from: Gilberto de Jesus, Re: U.S. Canadian Short-spaced VHF television stations.

19. *Protection and Coverage Rules for VHF Television Allocations in Canada*, Government of Canada Department of Communications, Broadcast Procedure 5, Issue 2 (April 1, 1962).

20. *Inquiry Into the Future Role of Low-Power Television and Television Translators in the National Telecommunications System.* 45 Fed. Reg. 69178 (October 17, 1980).

21. *Report and Recommendations in the Low-Power Television Inquiry* (BC Docket No. 78-235, September 9, 1980), Federal Communications Commission, Broadcast Bureau.

22. *Staff Report on: Comparability for UHF Television (A Preliminary Analysis*, September 9, 1979), Federal Communications Commission, Office of Plans and Policy, P. G. Gieseler *et al.*

23. *Staff Report on Comparability for UHF Television (Final Report)*, September 1980, Federal Communications Commission, Office of Plans and Policy, P. G. Gieseler *el al.*

24. *Direct Broadcast Satellite Communications (Proceedings of a Symposium)*, Space Applications Board, National Research Council, 2101 Constitution Avenue, NW., Washington, D.C. 20418 (April 8, 1980).

25. *Staff Report on: Policies for Regulation of Direct Broadcast Satellites* (September 1980), Office of Plans and Policy, Federal Communications Commission, F. O. Setzer *et al.*

26. *Television Receiving Antenna System Component Measurement*, NTIA Report-79-22 (June 1979), R. G. FitzGerrel *el al.* U.S. Government Printing Office 1979-680-469/510.

27. *A Review of the Technical Planning Factors for VHF Television Service* (March 1, 1977), Federal Communications Commission, OCE/R&SD 77-01, G. S. Kalagian, NTIS #PB 266341.

28. *New Television Network: Entry, Jurisdiction, Ownership and Regulation*, Federal Communications Commission, Network Inquiry Special Staff, Final Report (October 1980), Stanley M. Besen *et al.*

29. *Preliminary Report on Prospect for Additional Networks*, Federal Communications Commission, Network Inquiry Special Staff (February 1980), Stanley M. Besen *et al.*

30. *The Market for Television Advertising/ The Determinants of Television Station Profitability*, Federal Communications Commission, Network Inquiry Special Staff, Preliminary Reports (June 1980), Stanley M. Besen *et al.*

31. Computer Programs Used in Docket 80-499 Studies.

A. Equivalent Protection: BXX/KIDDER/ EQUPRTT, CALLS BXX/KIDDER/TVFMFS (OBJECT FILE BXX/TVFMSOBJ).

B. TV Channel Studies: BXX/KIDDER/ TVSTUDYTSSS (OBJECT FILE BXX/ TVSTUDYTOBJ), CALLS: LIBRARY/TSSISP BTM/BTM001P1TVDB BTM/BTM001 PZINDX BXX/KIDDER/ISPBUFS (OBJ. BXX/ ISPBUF).

32. Comparability of UHF Television (A Report to Congress by the FCC (December 29, 1978)).

33. *Final Report for High Performance Receiver*, D. L. Ash and C. S. Hartmann, Texas Instruments, Inc., FCC/OCE 78-01 (March 1978), NTIS #PB 277186.

34. *Program to Improve UHF Television*, Final Report, Project No. A-2475 (September 1980), Georgia Institute of Technology, W. R. Free *et al.* (Contract No. FCC-0315).

35. *Inquiry and Proposed Rulemaking. Deregulation of Radio*, 44 Fed. Reg. 57637 (October 5, 1979).

36. *Comments of the National Telecommunications and Information Administration* in General Docket No. 78-392 (received June 29, 1979).

37. FCC News #18033 (June 1, 1979-G), "FCC Issues Contract for Improved High Performance Television Receiver,"

FCC News #18032 (June 1, 1979-G).

38. "FCC Approves Reallocation of Some of UHF Comparability Research Funds".

39. Memorandum, From: Gilberto de Jesus, To: Ben Perez, Re: Status Report—Search for Co-channel Interference Complaints.

40. *Indoor Television Antenna Performance*, BTIA Report-79-28 (October 1979), R. G. FitzGerrell.

41. *A Study of the Characteristics of the FCC Prototype TV Receiver Relative to Conventional Receiver UHF Taboos.* FCC/ OCE/LAB 78-01 (February 1978), L. C. Middlekamp *et al.*

42. Memorandum (Draft). From: G. Godfrey, To: Ben Perez, Re: Possible Limited Facility Station Allotments in the Top 100 Markets (August 1, 1980).

43. *Relationship Between Noise Figures and Other Performance Characteristics of Contemporary UHF-TV Receivers*, FCC/ OCE/LAB 78-02 (May 1978), L. C. Middlekamp *et al.*

44. Memorandum, From: G. Godfrey, To: Ben Perez, Re: Potential LFS stations in the top 100 markets under the proposed Docket No. 50-499 criteria.

[FR Doc. 80-38002 Filed 12-11-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[Docket No. 21313; RM-2646; RM-2717; RM-3038; RM-3039; RM-3040]

AM Stereophonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply period.

SUMMARY: At the request of Motorola, Inc. and Magnavox Consumer Electronics Company, the time for filing comments and reply comments in the AM stereo proceeding, Docket No. 21313, has been extended. The requests of Kahn Communications, Inc. and Hazeltine Corporation for consideration of the marketplace issues prior to the submission of the technical data requested in the Further Notice is denied.

DATE: Comments must be filed on or before Janaury 9, 1981, and reply comments on or before February 13, 1981.

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

FOR FURTHER INFORMATION CONTACT: James McNally, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of AM stereophonic broadcasting, Docket No. 21313; RM-2646, RM-3039, RM-2717, RM-3040, and RM-3038. *Order extending time for filing comments and reply comments* (see 45 FR 59350).

Adopted: December 2, 1980.

Released: December 8, 1980.

By the Chief, Policy and Rules Division.

1. Motorola, Inc. ("Motorola") has submitted a request that the date for filing comments in the above-entitled matter be extended by 30 days until January 9, 1981, and that the reply

comment period be extended by a similar amount. Motorola notes that, *inter alia,* the Commission, in its *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* [1] (hereinafter referred to as the *"Further Notice"*) in this matter, requested additional test data regarding directional antenna and stereo system coverage performance. Apparently, additional Motorola AM stereo system testing was delayed pending what was ultimately unfavorable responses to a proposal by the National Association of Broadcasters ("NAB") for all system proponents' participation in a joint AM stereo system testing program. Motorola subsequently arranged to test its sytem at Station WTAQ in LaGrange, Illinois, beginning November 17, 1980, for a period fo approximately two weeks. Under the announced comment period deadline of December 9, 1980, this would leave Motorola with little more than a week to analyze the new data and to incorporate it into a proper and timely filing.

2. On November 24, 1980, the Commission received a similar request for a one-month extension of the comment period by the Magnavox Consumer Electronics Company ("Magnavox"), through its attorneys. Magnavox advises that it has "diligently attempted to devise appropriate test procedures and complete the additional testing required to provide the Commission with objective data, but it now appears that it will not be able thoroughly to complete that information gathering process in time for submission of comments on December 9, 1980." Magnavox further states that "Inasmuch as one of the principal reasons for the Notice of Further Proposed Rulemaking is to develop a record that would provide the most possible meaningful evidence for selection of an AM stereo system, (it) believes that an extension of the filing time by one month would be in the public interest." Lastly, Magnavox indicates that "Given the length of this proceeding to date, an extension of one month would not materially delay the outcome and would contribute to reasoned and objective decision-making."

3. The Hazeltine Corporation ("Hazeltine"), by its attorneys, filed a response to Motorola's request for an extension of time on November 21, 1980. Hazeltine states that it does not oppose an extension of time *per se,* but that it believes that there is a compelling need for expeditious initiation of AM stereo service that could best be accomplished by a different approach than that emphasized in the *Further Notice.* Hazeltine states that the Commission has found all of the proposed AM stereo systems "technically acceptable" [2] and that its selection of one of these competing systems as "best" is a process that is ". . . inevitably difficult and time-consuming, and is rife with subjective judgments." Continuing, Hazeltine indicates that its belief that the 30 day extension requested by Motorola is likely to be inadequate to complete the work on the Commission's proposed "matrix" and that judicial challenges to the Commission's ultimate selection are inevitable. As an alternative, Hazeltine recommends that the Commission consider comments on and decide the marketplace issue first, before turning to the "complicated and controversial matrix analysis process of single system selection."

4. On November 21, 1980, Kahn Communications, Inc. ("Kahn") filed comments in a similar vein, arguing that "adoption by the Commission of the marketplace approach would moot the single system selection issue, and would eliminate any need for the Commission to collect and analyze data under that issue." Kahn requests that in acting on the Motorola request, the Commission should adhere to the current deadline for the filing of comments and reply comments addressed to the marketplace approach issues which have been described in the *Further Notice.* Further, Kahn asks that the Commission indefinitely postpone consideration of a single system selection until it has acted on the comments and replies addressed to the marketplace solution "which, if adopted, would moot the remaining issues." Lastly, Kahn expresses the belief that "To delay any further consideration of comments on the marketplace solution in order to develop time consuming technical data which in the end may be moot, is contrary to the public interest."

5. Turning, first, to the requests of Kahn and Hazeltine, we note that the Commission raised the idea of utilizing a marketplace approach, rather than selecting a single system, in the event of a tie or near tie among the best systems. We also went on to solicit comments on the possibility of marketing receivers with multi stereo decoders. See paragraphs 35 and 36 of the *Further Notice.* However, the thrust of the *Further Notice* was that the Commission intended to select a particular AM stereo system and needed further information and data to assist it in selecting the best system. Therefore, we believe the requests of Kahn and Hazeltine to defer comments on the matrix and reach the issue of a marketplace solution, first, must be denied.

6. With respect to the Motorola and Magnavox pleadings we feel that the requested additional system testing should have been initiated in advance of the NAB joint system testing proposal, thereby eliminating the need for an extension of the comment and reply comment periods. However, while we are anxious to bring this proceeding to a prompt conclusion, the requested 30 day extension of the comment and reply comment periods appears warranted if it results in the submission of the additional technical information requested of each system proponent in the *Further Notice.* We urge AM stereo system proponents, in particular, and other interested parties, to use such additional time to best advantage in substantiating or amplifying upon prior technical showings pertinent to their respective systems.

7. Lastly, on November 25, 1980, we received a supplemental filing by Kahn entitled "Preliminary Response to Motorola's Request for Extension of Time and Alternative Proposal of Kahn Communications, Inc." Our review of this filing does not convince us that we should alter our view of the role of the marketplace decision alternative at this time; but this filing will be restudied during our general review of additional comments and reply comments generated by the *Further Notice.*

8. Accordingly, consistent with the foregoing discussion, it is ordered, That the referenced pleadings of Kahn and Hazeltine discussed *supra,* are denied; and that the motions by Motorola and Magnavox, discussed *supra,* are granted in that the dates for the filing of comments and reply comments are extended to and including January 9, 1981, and February 13, 1981, respectively.

9. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

[1] This *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* was adopted by the Commission on July 30, 1980, and released on September 11, 1980. It was published in the Federal Register (45 FR 59350) on September 9, 1980.

[2] More accurately, the Commission described the five principal competing AM stereo systems as "minimally acceptable" under its present rating criteria. See the cited *Further Notice,* paragraph 13.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-38600 Filed 12-11-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1051

[Ex Parte No. MC-147]

Information Required on Receipts and Bills—Responsibility for Loading and Unloading Motor Vehicles; Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time in notice of proposed rulemaking.

SUMMARY: Public notice of this proceeding was served on October 23, 1980 and published at 45 FR 72233, October 31, 1980. That proposed rulemaking was instituted to implement the Motor Carrier Act of 1980 in its requirement that when shippers and receivers of freight in interstate commerce require that any person who owns or operates a motor vehicle be assisted in loading and unloading, they shall be responsible for providing this assistance or shall compensate the owner or operator of the motor vehicle for all costs associated with securing such assistance

That notice provided that comments by interested persons were scheduled as due 45 days from the date of publication of the notice in the Federal Register. Under the terms of the notice as published comments, were due on or before December 15, 1980. This notice extends that comment period to December 22, 1980.

DATES: Comments in this proceeding are due on or before December 22, 1980.

ADDRESS: An original and 15 copies, if possible, of comments should be sent to: Ex Parte MC147, Room 7417, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Lewis R. Teeple, (202) 275-7612.

SUPPLEMENTARY INFORMATION: The American Trucking Association has requested a 7-day extension of time for filing comments so that the comment period in this proceeding will coincide with the comment period in Ex Parte No. MC-43 (Sub No. 11), Lease and Interchange of Vehicles, a related proceeding.

The request is warranted; therefore, the time for filing comments will be extended 7 days.

It is ordered:

The request of the American Trucking Association for an extension of 7 days of the time for filing comments as provided in the notice in this proceeding which was furnished on October 23, 1980, is granted.

The deadline for submitting comments in this proceeding is extended to December 22, 1980.

Decided: November 21, 1980.

By the Commission. Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38603 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1310

[Ex Parte No. MC 145[1]]

Cancellation of Motor Carrier Joint Rates and Through Routes

Decided: November 17, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to change its regulations concerning the cancellation of motor carrier joint rates and through routes. The present rules require, among other things, a justification statement to be filed each time a cancellation is proposed. This requirement will be eliminated. The new rules will permit cancellation of joint rates for any reason, including undue deliquency in interline settlements (as provided by 49 U.S.C. 10705 as amended by section 22(f) of Public Law 96-296), unless a shipper protests and shows that it has no practical alternative to the service proposed to be canceled or a connecting carrier protests and presents evidence that the cancellation would have an anticompetitive effect. In such situations, the rules would require maintenance of the joint rate long enough to allow for alternative service to be arranged.

DATES: Comments must be received on or before January 26, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275-7693.

ADDRESS: An original and 15 copies of comments should be submitted to: Interstate Commerce Commission, Room 5340, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: We propose permitting motor carriers of property to cancel joint rates and through routes unless a shipper protests the proposed cancellation and it is clear that the shipper has no practical alternative to the service proposed to be cancelled. In addition, we would accept protests from carriers who present evidence that the cancellation would have an anticompetitive effect. Only under these circumstances will a proposed cancellation be subject to suspension or investigation. We are also seeking comments on whether other types of protests should be accepted.

This is a change from present policy. Its intended effects would be four-fold: (1) to preclude frivolous protests from connecting carriers;[2] (2) to limit relief to instances where actual harm to the public is demonstrated; and (3) to provide the public with better service at a lower cost; and (4) to implement section 22(f) of the Motor Carrier Act of 1980.

At present, proposed cancellations of joint-line service may be and frequently are suspended based on general allegations by the connecting carrier that the cancellation will reduce the quality and quantity of service offered to the public. Our authority to prohibit joint-rate cancellations for these reasons has been upheld in the courts. *Interchange Between McLean Trucking and Manning*, 340 I.C.C. 38 (1971), affirmed *sub nom. McLean Trucking Company* v. *United States*, 346 F. Supp. 349 (1972), affirmed *per curiam*, 409 U.S. 1121 (1973).

Our efforts to preserve joint-line service were an outgrowth of the decisions in *Restrictions on Service by Motor Common Carriers*, 126 M.C.C. 303 (1977), 119 M.C.C. 691 (1974), 111 M.C.C. 151 (1970). The decisions in those cases were designed to ensure that carrier tariffs conformed with the carrier's operating authority, 49 CFR 1307.27(k). In addition, those decisions held that certain restrictions on joint-line service were unlawful, 119 M.C.C. 691, 704-705, modified 126 M.C.C. 303, 326. However, these restrictions were not intended to interfere with a carrier's right to decide whether or not to participate in joint-line service, 126 M.C.C. 303, 317. Once the determination to participate is made, the decision sets out standards of conduct for joint-line service.

Later, a decision was issued in *Restrictions on Service by Motor*

[1] This decision embraces *Restrictions on Service by Motor Common Carriers*, 129 M.C.C. 71 (1978).

[2] Under the present rules, 49 CFR 1310.8(d) advance notice of a proposed cancellation must be offered to a connecting carrier. We believe that 30-day statutory notice to a carrier cannot protest the cancellation is sufficient but comments on this issue are requested.

Common Carriers, 129 M.C.C. 71 (1978) which established rules requiring a justification statement to be filed each time a cancellation of joint rates is proposed. The purpose of the rules was to make sure that carriers did not have an opportunity to accomplish service restrictions prohibited by prior rules and decisions through large scale selective routing cancellations, 129 M.C.C. 71, 78. Protection of connecting carriers was a second reason for the rules. Preservation of necessary services was also prominently mentioned.

A number of reasons lead us to change our policy in this area and replace our old rules with new ones. In recent years we have decided to permit new entrants to meet the public's need for service. Incumbent carriers are being pressured by the new entrants or expanded service by existing carriers rather than administrative regulation to provide the right service at the right price. In other words, we have chosen to rely on the forces of competition as the principal guarantor of better service at low costs.

In a competitive environment, absent unusual circumstances, carriers should be free to choose their business partners and also, to terminate joint arrangements when they do not meet expectations. Under ordinary circumstances, cancellation of joint rates today is not likely to result in a real loss of service or to have anticompetitive effects as they may have in the past. Our current policy toward entry should offer a plentiful supply of potential connecting carriers as well as competitive single-line service. In the unlikely event a proposed cancellation would result in a service vacuum, or present a case of anticompetitive behavior, the proposed rule would maintain the *status quo* until replacement service is available or the allegations of anticompetitive behavior can be investigated.

We propose to decide whether a practical service alternative is available by considering if other motor, rail, air, or water service between the origin and destination can be secured. We propose to find a service alternative to be practical if it has sufficient available capacity at a comparable price. Price comparability is difficult to define. However, we are proposing that a service which costs no more than 125 percent of the cost of the canceled service would be a practical alternative. We propose to consider private carriage among the possible alternative.

The new rules are designed to implement, among other things the requirement contained in section 22(f) of the Motor Carrier Act of 1980, permitting cancellation of joint rates and through routes when there is an undue delinquency in interline settlements. Undue delinquency is defined as failure to pay interline accounts within 30 days. However, as discussed above, we believe that all restrictions on joint-rate cancellations should be removed so long as shippers are not left without a practical service alternative and connecting carriers are not subjected to anticompetitive behavior.

Our new mandate from the Congress (new section 10705(b)(1)) also gives us broad authority to order the establishment of joint rates and through routes when required by the public interest. When called upon, we will not hesitate to use this power when necessary to meet reasonable shipping demands. However, in view of section 10705(b)(2) and the ability of carriers to enter markets in single-line service, we anticipate limited need for and use of this power to prescribe joint rates. Instead, we plan to rely on the new rules to end the present uncertainty about joint rate cancellations and, in that way, promote voluntary establishment of desirable joint-rate arrangements.

We believe that the permissive power to prescribe joint rates and through routes and the rules proposed here, fit together quite well. If there is a situation where service is lacking and joint rates are proposed to be canceled we will be prepared to act accordingly. We can prescribe joint rates and prevent their cancellation in appropriate circumstances.

To meet the requirements of section 22(f) of the Motor Carrier Act of 1980, and the general policy goals outlined above we propose revising 49 CFR 1310.8(d) to read:

1310.8(d) Cancellation of joint rates.

(1) Joint rates and through routes may be canceled for any reason including undue delinquency in interline settlements.

(2) Undue delinquency in interline settlements is the failure of a carrier to pay its obligations within 30 days.

(3) If a shipper protests, and shows that it has no practical alternative to the service proposed to be canceled, the service must be maintained until reasonable alternative service can be arranged.

(4) If a connecting carrier protests, and shows that the cancellation would have an anticompetitive effect, the service must be maintained until an investigation of the proposed cancellation is completed.

We invite comment on this proposal.

This proceeding does not appear to affect significantly either the quality of the human environment or conservation of energy resources. However, comments regarding environmental and energy issues, if any, should be included in statements filed in response to this notice.

Commissioner Clapp, concurring in part and dissenting in part:

Congress has explicitly instructed this Commission to formulate regulations to permit cancellation of joint rates "in the event of undue delinquency in the settlement." The majority has proposed to permit cancellation for any reason without challenge except for exceptions.

I agree that shippers should be able to protest the loss of a joint line when there are no reasonable alternatives. This has been adequately discussed. I am confused though by the "anticompetitive behavior" criterion for carrier protests. What must a carrier show? Is the canceling carrier's decision to interline with another carrier anticompetitive? What if it intends to substitute its own single line? How about a complete withdrawal from the route? I ask for comments and hope that some guidelines will be incorporated into the final rulemaking.

49 U.S.C. 10321 and 10705 as amended by section 22(f) of the Motor Carrier Act of 1980 and 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioner Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp, concurring in part and dissenting in part with a separate expression. Commissioner Gilliam dissenting.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38367 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Bitterroot National Forest Plan, Ravalli and Missoula Counties, Montana, and Idaho County, Idaho; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Bitterroot National Forest's Land and Resource Management Plan, i.e., a Forest Plan. The plan will encompass the entire National Forest of approximately 1,578,000 acres.

Wilderness suitability studies for two Montana Wilderness Study Act (Pub. L. 95–150) areas lying within the Forest boundary will be conducted as a part of the appropriate Plan. The Deerlodge National Forest has been designated the lead Forest for the Sapphire Study area which includes portions of both National Forests; whereas the Bluejoint Study Area lies wholly within and will be the responsibility of the Bitterroot National Forest.

Preparation of the Plan will follow the direction required by regulations issued pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended.

The Plan will be selected from a range of alternatives including: A "no action" alternative (continue current management practices); alternatives displaying possible outputs of resources at several expenditure levels; and alternatives designed to resolve or mitigate major public issues and management concerns.

Early in the environmental analysis, Federal, State and local agencies and other individuals or organizations, who may be interested in or affected by the decision, will be invited to participate in the scoping process. Preliminary scoping done at the local level identified the following tentative planning issues: Visual effects, marginal lands, community stability, wildlife populations, recreational use, road access, water quality and quantity, backcountry, wilderness, slope, soils, deadwood, timber potential, minerals, fuel and energy opportunities, grazing, and fire and/or insect and disease.

Additional comments concerning validation of the list or identification of additional issues should be postmarked by January 15, 1981, to assure consideration in determination of major issues. Information received from all sources will be analyzed, major issues that can be considered by the Forest Plan identified, and a final listing sent to interested parties.

The draft and final environmental impact statements for the Bitterroot Forest Plan are scheduled for release in March and November 1982, respectively.

Tom Coston, the Regional Forester for the Northern Region, is the responsible official for approval of the Forest Plan. Questions concerning development of the Plan should be directed to Dick Strong or Bob Bigler, Bitterroot National Forest, 316 North Third Street, Hamilton, Montana 59840 (phone 406–363–3131).

Dated: December 3, 1980.

James E. Reid,
Acting Regional Forester.

[FR Doc. 80-38497 Filed 12-11-80; 8:45 am]
BILLING CODE 3410-11-M

Office of the Secretary

Performance Review Boards; Membership Amended

AGENCY: Department of Agriculture.
ACTION: Notice.

SUMMARY: This document amends the membership of one of the Performance Review Boards appearing at 45 FR 73998 and 73999 in the issue for Friday, November 7, 1980.

DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Acting Project Manager, Civil Service Reform Act Implementation Group, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250 (202–447–2830).

Performance Review Board IX, entitled "Natural Resources and Environment," is amended by deleting "Ned D. Bayley, Deputy Assistant Secretary for Natural Resources and Environment, Chairperson" and inserting in lieu thereof "Philip L. Thornton, Acting Deputy Assistant Secretary for Natural Resources and Environment, Chairperson" in item one.

Bob Bergland,
Secretary.

December 9, 1980.

[FR Doc. 80-38431 Filed 12-11-80; 8:45 am]
BILLING CODE 3410-96-M

Senior Executive Service Bonuses

AGENCY: Department of Agriculture.
ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture will be paying Senior Executive Service bonuses no earlier than December 20, 1980, and no later than January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Acting Project Manager, Civil Service Reform Act Implementation Group, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250 (202–447–2830).

John W. Fossum,
Director of Personnel.

[FR Doc. 80-38432 Filed 12-11-80; 8:45 am]
BILLING CODE 3410-96-M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc., Denver, Colorado; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $17,257,000 to Tri-State Generation and Transmission Association, Inc., Denver, Colorado. These loan funds will be used to finance Tri-State's 24.13 percent share of 329 miles of transmission line, one new switching station, two new substations, substation additions, and

related facilities in connection with its participation in the Missouri Basin Power Project.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasiblilty studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. William E. Mickey, General Manager, Tri-State Generation and Transmission Association, Inc., P.O. Box 33695, Denver, Colorado 80233.

In order to be considered, proposals must be submitted on or before January 12, 1981, to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 4th day of December 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-38493 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-15-M

Wabash Valley Power Association, Inc., Indianapolis, Indiana; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $602,000,000 to Wabash Valley Power Association, Inc., of Indianapolis, Indiana, and (b) supplementing such a loan with an insured ERA loan at five percent interest in the approximate amount of $6,000,000 to this cooperative. These loan funds will be used to finance a project consisting of (a) load management equipment; (b) 43 miles of 230 kV transmission line, 2 miles of 138 kV transmission line, 52 miles of 230 kV transmission line, 25 miles of 345 kV transmission line and 48 miles of 765 kV tranmission line; and (c) additional costs for the borrower's participation in a nuclear generating project.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advance to the borrower of the guaranteed loan funds from Mr. Edward P. Martin, Manager, Wabash Valley Power Association, Inc., P.O. Box 24700, Indianapolis, Indiana 46224.

In order to be considered, proposals must be submitted on or before January 12, 1981, to Mr. Martin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Wabash Valley and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of November 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-38380 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-15-M

North Carolina Electric Membership Corp., Raleigh, North Carolina; Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22, "Guarantee of Loans for Bulk Power Supply Facilities", notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $8,750,000 to North Carolina Electric Membership Corporation of Raleigh, North Carolina. The Administrator is also considering approval of an insured loan of $8,350,000. These loan funds will be used to finance front-end costs for the development of a peat-fired generating plant.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Jim Stephenson, Manager, North Carolina Electric Membership Corporation, 3333 North Boulevard, P.O. Box 27306, Raleigh, North Carolina 27611.

In order to be considered, proposals must be submitted on or before January 12, 1981, to Mr. Stephenson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as North Carolina Electric Membership Corporation and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catelog of Fedeal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 5th day of December, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-38705 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Iron Metal Castings From India; Initiation of Antidumping Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: The U.S. Department of Commerce is initiating an antidumping investigation to determine whether certain iron metal castings exported from India are being, or are likely to be, sold in the U.S. market at less than fair

value. These castings consist of manhole covers and frames, clean-out covers and frames, along with catch-basin grates and frames. Generally, merchandise is judged to be sold at less than fair value when the prices of the merchandise sold for exportation to the United States are lower than the prices in the manufacturer's or exporter's home market or in countries other than the United States, or when they are lower than their constructed value.

The Department of Commerce is notifying the International Trade Commission of this action so that, in accordance with section 733(a) of the Tariff Act of 1930, as amended, the Commission may determine no later than January 5, 1981, whether there is a reasonable indication that importing this merchandise is causing, or is likely to cause, material injury to U.S. manufacturers.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Steven S. Lim or Richard Rimlinger, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-1776 or 3962).

SUPPLEMENTARY INFORMATION: On November 19, 1980, the U.S. Department of commerce received a petition on behalf of the U.S. industry that produces metal castings for public works. The petition alleges that certain iron metal castings [1] exported from India are being, or are likely to be, sold in the U.S. market at less than fair value, within the meaning of section 731 of the Tariff Act of 1930, as amended (93 Stat. 162, 19 U.S.C. 1673). The petition also asserts that sales of these castings cause or threaten to cause material injury to the U.S. industry.

The petition complies with the requirements of the Commerce Regulations (19 CFR 353.36 and 353.37 45 FR 8198, 8199) in that it shows sufficent evidence of sales at less than fair value and material injury. Based on the constructed value data submitted by the petitioner and export prices to the United States, the dumping margins range from about 11 to 25 percent. The evidence submitted concerning material injury, or the likelihood of such injury, to the U.S. industry, is based primarily on reduced profitability, declining sales, reduced capacity utilization, declining employment, depressed prices, declining output, and declining market share.

[1] For purposes of this investigation, the term "certain iron metal castings" means manhole covers and frames, catch-basin grates and frames, and clean-out covers and frames, provided for in item 657.09 of the Tariff Schedules of the United States.

Thus, in accordance with section 732(c) of the Act (93 stat. 162, 19 U.S.C. 1673a(c)), I hereby determine that the Department will initiate an investigation to determine whether imports of certain iron metal castings, from India are being, or are likely to be, sold at less than fair value.

In accordance with section 732(d) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)), the Department is notifying the U.S. International Trade Commission (ITC) and providing it with a copy of the information on which I based this determination to initiate an investigation. The International Trade Administration will make available to the ITC all nonprivileged and nonconfidential information. It will also make available all privileged and confidential information in its files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Under section 733(a) of the Act (93 Stat. 163, 19 U.S.C. 1673b(a)), the ITC must determine no later than January 5, 1981, whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain iron metal castings from India. If that determination is negative, this investigation will be terminated, and the International Trade Administration will publish no further notice. Otherwise, the investigation will proceed to its conclusion. Similarly, under section 733(b) of the Act (93 Stat. 163, 19 U.S.C. 1673b(b)) the International Trade Administration must determine, normally no later than 160 days after the date on which the petition was filed, whether there is a reasonable basis to believe or suspect that the merchandise which is the subject of this investigation is being, or likely to be, sold at less than fair value. Therefore, unless the investigation is terminated or extended, the International Trade Administration will submit this preliminary determination no later than April 28, 1981.

An investigation under the countervailing duty law involving these same castings was concluded recently. A countervailing Duty Order was published in the Federal Register on October 16, 1980 (45 FR 68650). The initiation of this dumping investigation, in the face of the Countervailing Duty Order, is permitted under these laws and is consistent with the international obligations of the United States, specifically the General Agreement of Tariffs and Trade (GATT), Article VI. Any determinations made in these investigations will not be duplicative, and the products concerned will not be subject to both dumping and countervailing duty to compensate for the same situation.

This notice is published pursuant to section 732 of the Act (93 stat. 162, 19 U.S.C. 1673a) and section 353.37 of the Commerce Regulations (19 CFR 353.37 45 FR 8199).

John d. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-38376 Filed 12-11-80; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Counsel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATE: The meeting, which is open to the public, will convene on Wednesday, January 7, 1981, at approximately 9:30 a.m., and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Landmark Motor Hotel, Chateau A, 2601 Severn Avenue, Metairie, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609 Telephone: (813) 228-2815.

Dated: December 9, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-38631 Filed 12-11-80; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the

licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon executive of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Commerce, National Technical Information Service, Office of Government Inventions and Patents, Springfield, Va. 22161

Patent application 6-186,871: Flame Resistant Insulation Materials, Composition and Method; filed Sept. 12, 1980.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240

Patent, 4,199,974: Eolian Sand Trap; filed Sept. 15, 1978, patented Apr. 29, 1980; not available NTIS

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 6-168,943: Pressure Suit Joint Analyzer; filed July 11, 1980.

Patent application 6-168,944: Apparatus for Sequentially Transporting Containers; filed July 11, 1980.

Patent application 6-172,098: Active Notch Filter Network with Variable Notch Depth, Width and Frequency; filed July 25, 1980.

Patent application 6-172,099: Complementary Cross-Slot Phased Array Antenna; filed July 25, 1980.

Patent application 6-173,518: Reconfiguring Redundancy Management; filed July 30, 1980.

Patent application 6-173,524: Low Intensity X-Ray and gamma-Ray Imaging Spectrometer; filed July 30, 1980.

Patent 4,089,004: Collapsible Corrugated Horn Antenna; filed May 20, 1977, patented May 9, 1978; not available NTIS.

Patent 4,191,159: System for Slicing Silicon Wafers; filed Oct. 16, 1978, patented Mar. 4, 1980; not available NTIS.

Patent 4,212,199; System for Use in Conducting Wake Investigation for a Wing in Flight; filed Feb. 28, 1979, patented July 15, 1980; not available NTIS.

U.S. Department of Energy, Assistant General Counel for Patents, Washington, D.C. 20545

Patent application 6-034,229: Vibrating Fuel Grapple; filed Apr. 30, 1979

Patent application 6-055,209: Between-Cycle Laser System for Depressurization and Resealing of Modified Design Nuclear Fuel Assemblies; filed July 5, 1979

Patent application 6-064,592: Infinite Blender for High Temperature Gas-Cooled Reactor Fuel Microspheres; filed Aug. 7, 1979

Patent application 6-077,821: Liquid-Metal-Cooled Reactor; filed Sept. 21, 1979

Patent application 6-078,758: High Temperature Solar Energy Absorbing Surfaces; filed Sept. 25, 1979

Patent application 6-085,551: Method of Preparation of Novel Fiber Reinforced Titanium Diboride Composite Bodies and Uses Therefor; filed Oct. 6, 1979

Patent application 6-090,845: Rapid Scanning System for Fuel Drawers; filed Nov. 2, 1979

Patent application 6-092,154: Digital Pressure Transducer for Use at High Temperatures; filed Nov. 7, 1979

Patent application 6-096,261: Fabrication of Thorium Bearing Carbide Fuels; filed Nov. 20, 1979

Patent 4,162,206: Separation of Iodine from Mercury Containing Scrubbing Solutions; filed Nov. 16, 1978, patented July 24, 1979; not available NTIS

Patent 4,164,849: Method and Apparatus for Thermal Power Generation; filed Sept. 30, 1976, patented Aug. 21, 1979; not available NTIS

Patent 4,181,572: Closure Head for a Nuclear Reactor; filed June 16, 1977, patented Jan. 1, 1980; not available NTIS

Patent 4,192,583: Solar Receiver Heliostat Reflector Having a Linear Drive and Position Information System; filed Oct. 21, 1977, patented Mar. 11, 1980; not available NTIS

Patent 4,200,831: Compensated Pulsed Alternator; filed Aug. 3, 1978, patented Apr. 29, 1980; not available NTIS

U.S. Department of the Navy, Director, Navy Patent Program/Patent Council for the Navy, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 6-160,877: Environmental Mapping System; filed June 19, 1980

Patent application 6-168,987: Dual Dependent Stores Ejector Assembly for Angular Rate and Position Control; filed July 14, 1980

Patent application 6-175,454: Method of Synthesizing Resin Prepolymers; filed Aug. 5, 1980

Patent application 6-181,926: Fragment-Tolerant Transmission Line; filed Aug. 27, 1980

Patent 4,209,458: Flourinated Phthalonitriles; filed Apr. 4, 1979, patented June 24, 1980; not available NTIS

Patent 4,210,871: Optimum Diversity Combining Circuit for a Plurality of Channels; filed Sept. 1, 1978, patented July 1, 1980; not available NTIS

Patent 4,213,099: Hydrophone Preamplifier and Calibration Circuit; filed Nov. 20, 1978, patented July 15, 1980; not available NTIS

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 4,212,199: System for Use in Conducting Wake Investigation for a Wing in Flight; filed Feb. 28, 1979, patented July 15, 1980; not available NTIS

U.S. Department of Agriculture, Program Agreements and Patents Branch, Administration Service Division, Federal Building, Science and Education Administration, Hyattsville, Md. 20782

Patent 4,208,920: Automatic Spinning Strength Tester; filed Apr. 30, 1979, patented June, 24, 1980; not available NTIS

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205

Patent application 6-165,690: A Short Total Synthesis of Dihydrothebainone, Dihydrocodeinone, and Nordihydrocodeinone; filed July 3, 1980

Chief, Intellectual Property Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, D.C. 20310

Patent 3,838,497: Attachment of Rotating Band to Shell Casing by Brazing; filed Nov. 15, 1972, patented Oct. 1, 1974; not available NTIS

[FR Doc. 80-38593 Filed 12-11-80; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation.

ACTION: Announcement of the granting of accreditation to laboratories for specifc tests on thermal insulation materials, freshly mixed field concrete, and carpet.

SUMMARY: The Department of Commerce announces the granting of accreditation to two laboratories named herein which were determined to be competent to perform specific tests on thermal insulation materials and carpet under the National Voluntary Laboratory Accreditation Program (NVLAP). These laboratories are accredited only for the specific tests identified in this notice.

TERM: These accreditations were granted for a term beginning in October 1980, and are valid for one year, except that an accreditation may be revoked before the expiration date due to

violation of the criteria or other conditions of the laboratory's accreditation, or otherwise terminated at the request of the laboratory.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-2054.

SUPPLEMENTARY INFORMATION:

Background

The general and specific criteria used in determining the competence of laboratories to test thermal insulation materials, freshly mixed field concrete, or carpet were published on January 23, 1980 (45 FR 5572-5600). Applications in response to that notice were received by April 1980. The assessment process for most of the applicant laboratories was completed by early October. The assessment process for the rest of the applicants is expected to be completed by December 1980. The balance of the accreditation actions should be announced by January 1981.

A Report of Accreditation Actions taken during the month of October was published in the Federal Register on November 14, 1980 (45 FR 75542-75547), listing the 71 laboratories then accredited by NVLAP and the test methods for which each is accredited.

Accreditation Actions (November 1980)

The two laboratories for which accreditation action was taken during November 1980 are listed in the table of this notice along with the test methods for which each is accredited. The NAHB Research Foundation was granted accreditation for one additional test method than was listed in the November 14, 1980 Federal Register notice. Southwest Research Institute was granted accreditation for thermal insulation materials and carpet.

Accredited Laboratories

A total of 72 laboratories have now been accredited or reaccredited under NVLAP. An alphabetical listing of the laboratories (excluding the two contained in this notice) is shown in Table 2 of the November 14 notice and shows the NVLAP codes for the test methods for which each laboratory is accredited. Table 1 of that notice lists all the test methods for which accreditation may be sought and identifies the NVLAP code for each test method.

This accreditation shall in no way relieve the laboratories from the necessity of observing and being in compliance with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws.

Dated: December 9, 1980.

Howard I. Forman,

Deputy Assistant Secretary for Product Standards Policy.

NAHB Research Foundation, Inc., 627 Southlawn Lane, P.O. Box 1627, Rockville, MD 20850

NVLAP code	Test method designation	Short title (property); subtitle (if applicable)
01/D02	ASTM C167	Thickness and density; blanket and batt.
01/D13	ASTM C519	Density; loose-fill (fibrous).
01/T06	ASTM C518	Thermal transmission properties; heat flow meter.
01/T09	ASTM C653	Thermal resistance (rec. practice); blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (rec. practice); loose-fill (fibrous).

Southwest Research Institute, Department of Fire Technology, 6220 Culebra Road, San Antonio, TX 78229

NVLAP code	Test method designation	Short title (property); subtitle (if applicable)
01/C02	HH-I-515 (para. 4.8.5 in D version, amendment 1).	Corrosiveness; cellulosic fiber (loose-fill).
01/D25	HH-I-515 (para. 4.8.3 in D version, amendment 1).	Moisture absorption; cellulosic fiber (loose-fill).
01/F06	ASTM C739 (para. 10.4 in 77 version).	Flame resistance permanency; cellulosic fiber (loose-fill).
01/T04	ASTM C236	Thermal conductance; guarded hot box.
01/V02	ASTM D591	Starch in paper; qualitative test.
01/V03	ASTM D2020	Mildew (fungus) resistance; paper and paperboard.
01/V05	HH-I-515 (para. 4.8.6 in D version, amendment 1).	Fungus; cellulosic fiber (loose-fill).
01/V06	HH-I-515 (para. 4.8.9 in D version, amendment 1).	Starch; cellulosic fiber (loose-fill).
03/F01	ASTM E84	Surface flammability (carpet).
03/F02	UL 992	Surface flammability.
03/F03	DoC FF1-70	Methenamine pill test.
03/F04	ASTM E648	Radiant panel (carpet).

[FR Doc. 80-38605 Filed 12-11-80; 8:45 am]
BILLING CODE 3510-13-M

Summary of International Laboratory Accreditation Conference (ILAC/80)

The fourth annual International Laboratory Accreditation Conference (ILAC) was held in Paris, France from October 27 to October 31, 1980. ILAC is an informal organization of persons responsible for testing laboratory accreditation systems in various countries worldwide. ILAC seeks to develop a basis upon which product test data obtained by laboratories in one country may be accepted in other countries. Thirty-two nations and ten international organizations sent delegations to ILAC/80. The United States' delegation included Messrs. R. J. Amorosi, J. O. Bryson, R. B. Ellert, M. A. Farrar, D. C. Fleckenstein, J. Locke, R. Peach, B. Whitaker and F. C. Wilson and was chaired by Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy.

United States delegate Mr. Allen Farrar, chairman of Task Force A, presented an extensive report of the task force on the legal problems raised by mutual recognition of tests and laboratory accreditation systems. This concluded the work of the task force, although there still appeared to be a need to develop guidelines for countries wishing to develop arrangements for mutual recognition of test data and laboratory accreditation systems. A small working group was established to collect, disseminate and analyze information concerning bilateral or other agreements for the recognition of laboratory accreditation systems. Mr. Farrar has been designated as the United States representative in the working group.

United Kingdom delegate, Mr. Stanley Linton, presented a draft directory of laboratory accreditation systems and ILAC agreed that a formal directory should be prepared by IMS World Publications for initial distribution at ILAC/81 in Mexico City in October, 1981. Approximately 70 laboratory accreditation systems in the United States are included in the directory and the manager for each system is being asked to edit a description of his or her

system one more time, by the end of December, 1980, for inclusion in the directory. An editorial review board has been established to approve the final copy and Mr. John Locke has been designated as the United States representative on that board.

Australian delegate, Mr. John Gilmour, presented the work of Task Force C. A framework depicting the elements of an effective laboratory accreditation system was presented, along with suggestions for improving ISO Guide 25, "Guidelines for Assessing the Technical Competence of Testing Laboratories". Representatives of the task force will work with representatives of ISO CERTICO to revise Guide 25.

Task Force C recognized the need to continue its efforts to provide guidance on technical issues of importance to laboratory accreditation systems. Working groups will be formed to develop documents of the following types:

- Guidelines for operating laboratory accreditation systems;
- Model laboratory operations control manual (sometimes referred to as a laboratory quality control manual);
- Guidelines for use of calibration procedures in laboratory accreditation systems; and
- Guidelines for establishing laboratory proficiency testing methods.

ILAC agreed to accept, with slight modification, the laboratory accreditation definitions developed in ISO STACO/ILAC Ad Hoc Task Force and to encourage the use of these definitions worldwide.

United States delegate J. O. Bryson agreed to develop a bibliography of documents published by all laboratory accreditation systems. Documents should be sent to Mr. Bryson, Room B-06 Technology Building, National Bureau of Standards, Washington, D.C. 20234.

The next conference, ILAC/81 is scheduled for Mexico City, Mexico, October 26-30, 1981 and will be chaired by Dr. Roman Serra, head of the Mexican delegation. Additional information, including copies of the resolutions passed at ILAC/80 may be obtained from Mr. John W. Locke, NVLAP Coordinator, Room 3876, Department of Commerce, Washington, D.C. 20230.

Howard I. Forman,

Deputy Assistant Secretary for Product Standards Policy.

December 9, 1980.

[FR Doc. 80-38604 Filed 12-11-80; 8:45 am]

BILLING CODE 3510-13-M

Maritime Administration

[Docket No. S-681]

Participation by Vessels Built with Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by Boston VLCC Tankers, Inc. II

Notice is hereby given that an application has been filed by Boston VLCC Tankers, Inc. II (Boston II) under section 506 of the Merchant Marine Act, 1936, as amended, to permit the tanker, SS *Massachusetts*, to carry crude oil in the domestic trade (1) from Alaska to Panama for transshipment to the U.S. Gulf, pursuant to Part 250 of Chapter II, Title 46, of the Code of Federal Regulations (46 CFR Part 250), or (2) Alaska directly to the U.S. Gulf, at Boston II's option. Only one voyage is requested. The date of commencement of loading at Valdez is set for December 28, 1980. The *Massachusetts*, owned by Boston II, is a 264,073 DWT tanker built with construction-differential subsidy.

Boston II advises that the *Massachusetts* will carry 780,000 barrels of TransAlaska Pipeline crude oil for Exxon on the requested voyage and 730,000 barrels for Earth Resources. Boston II submits that no vessel suitable to meet the transportation requirements to be fulfilled by the *Massachusetts* will be available at Valdez in time to meet the December 28 loading date. Boston II notes that the size of the cargo lift requires a vessel the size of the *Massachusetts* to be utilized.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW, Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the the Federal Register issue of June 29, 1977 (42 FR 33035) and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest such application for carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this notice in the Federal Register. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance program No. 11.500 Construction-Differential Subsidy (CDS)).

By Order of the Assistant Secretary for Maritime Affairs.

Date: December 11, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-38360 Filed 12-11-80; 11:03 am]

BILLING CODE 3510-15-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton and Wool Textile Products From Macau

December 9, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for the remaining available carryforward in the following categories of cotton and wool textile products, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1980: 333/334/335 (cotton coats) 339 (women's, girls' and infants' cotton knit shirts and blouses), 340 (men's and boys' woven cotton shirts), 347/348 (cotton trousers), and 445/446 (wool sweaters). The increase in the level for Category 333/334/335 also includes restoration of 6,814 dozen previously charged improperly as overshipments from 1978.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau provides for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used deducted from the level in the

succeeding year and for administrative arrangements or adjustments to resolve problems arising in the implementation of the agreement. At the request of the Government of Macau the remaining available carryforward is being applied to cotton and wool textile products in Categories 333/334/335, 339, 340, 347/348 and 445/446 during the agreement year which began on January 1, 1980. An amount of 6,814 dozen in overshipments improperly charged to this year's level in Category 333/334/335 is also being restored.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On January 30, 1980, there was published in the Federal Register (45 FR 6826) a letter dated January 25, 1980, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980, and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commisioner of Customs, under the terms of the bilateral agreement, to increase the levels of restraint established for cotton and wool textile products in Categories 333/334/335, 339, 340, 347/348 and 445/446 during the twelve-month period which began on January 1, 1980.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 9, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On January 25, 1980, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1980, and extending through December 31, 1980, of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

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 November 29, and December 18, 1979, between the Governments of the United States and Macau; 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 15, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 333/334/335, 339, 340, 347/348 and 445/446, produced or manufactured in Macau, in excess of the following levels of restraint:

Category	Adjusted 12-month level of restraint[2]
	(dozen)
333/334/335	94,160
339	534,023
340	124,300
347/348	296,060
445/446	75,335

[2] The levels of restraint have not been adjusted to reflect any imports after December 31, 1949.

The actions taken with respect to the Government of Macau and with respect to imports of cotton and wool textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these 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 Chariman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-39472 Filed 12-11-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Macau, which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Defense Mapping Agency

Privacy Act of 1974; Systems of Records, Deletions and Amendments

Correction

On Tuesday, December 2, 1980, a document for the Department of Defense, Defense Mapping Agency, appeared at page 79867 in the middle column.

1. The heading should have appeared as printed above.

2. The following material was inadvertently omitted from page 79867, the middle column. It should be placed immediately after the heading and preceding the bold face numerical designation "B0401-02 HQHTA".

AGENCY: Defense Mapping Agency (DMA).

ACTION: Notification of deletions and amendments to systems of records.

SUMMARY: The Defense Mapping Agency proposes to delete 26 and amend 13 systems of records subject to the Privacy Act of 1974. The deleted systems and reasons for their deletions are specifically set forth below under "Deletions". The 13 amended systems being amended are set forth below under "Amendments".

DATES: These systems shall be deleted and amended as proposed without further notice January 2, 1981, unless comments are received on or before January 2, 1981, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Jane Stafford, telephone (202) 254-4401.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency (DMA) systems of records notice as prescribed by the Privacy Act of 1974, Title 5, U.S.C., Section 552a (P.L. 93-579), have been published in the Federal Register at: FR Doc. 79-37052 (44 FR 74017; December 17, 1979).

The proposed changes are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the

submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 24, 1980.

Deletions

B0102-04 HQHTASID

System Name:

Employee Record Card Files (44FR74019) December 17, 1979

Reason:

This system is covered by B0606-02, HQHTASI.

B0102-09 HQHTASID

System Name:

Duty Roster Files (44FR74020) December 17, 1979

Reason:

This system is not a system of records as defined in 5 U.S.C. 552a.(5).

B0102-09-2 HQHTASID

System Name:

Duty Roster Files (44FR74021) December 17, 1979

Reason:

This system is covered by B0614-02 HTA.

B0102-10 HQHTASID

System Name:

Standards of Conduct Files (44FR74021) December 17, 1979

Reason:

This system is covered in B0401-02 HQHTA, appearing with minor revisions in the amendment section of this document.

B0102-11 HQHTASID

System Name:

Temporary Duty Travel Files (44FR74021) December 17, 1979

Reason:

This system is covered by B1211-07 HQHTASID, appearing with minor revisions in the amendment section of this document.

B0104-02 HQHTASID

System Name:

Records Access Files (44FR74022) December 17, 1979

Reason:

This system is covered in B0502-03-2 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0104-12 HQHTASID

System Name:

Security Awareness Files (44FR74022) December 17, 1979

Reason:

This system is covered in B0504-01-2 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0104-13 HQHTASID

System Name:

Personnel Security Clearance Information Files (44FR74023) December 17, 1979

Reason:

This system is covered in B0504-01-2 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0201-05 HQHTA

System Name:

DMA Central Clearance Group Pre-Employment Files (44FR74023) December 17, 1979

Reason:

This system is covered in B0504-01-2 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0201-07 HQHT

System Name:

Communications Center Release Authorization (44FR74023) December 17, 1979

Reason:

This system is not a system of records as defined in 5 U.S.C. 552a. (5).

B0201-07-1 HQHTASID

System Name:

Military Personnel Reference Paper Files (44FR74024) December 17, 1979

Reason:

This system is covered by B0614-02 HTA.

B0402-06 HQHT

System Name:

Tort Claims Files (44FR74030) December 17, 1979

Changes:

Delete the system in its entirety

Reason:

This system is covered under B0402-05 HQHTA, appearing with minor revisions in the amendment section of this document.

B0402-13 HQHTA

System Name:

Agency Claim Files (44FR74031) December 17, 1979

Changes:

Delete the system in its entirety

Reason:

This system is covered under B0402-05 HQHTA, appearing with minor revisions in the amendment section of this document.

B0403-12 HQHTASI

System Name:

Patent and Invention File (44FR74031) December 17, 1979

Changes:

Delete the system in its entirety

Reason:

This system is covered under B0402-05 HQHTA, appearing with minor revisions in the amendment section of this document.

B0502-15-2 A

System Name:

Security Violation Card File (44FR74034) December 17, 1979

Reason:

This system is covered by B0502-15 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0503-07 HTA

System Name:

Traffic Law Enforcement Files (44FR74036) December 17, 1979

Reason:

This system is covered in B0503-05 HQHTASI.

B0504-02 HQHTASI

System Name:

Security Briefing and Debriefing Files (44FR74038) December 17, 1979

Reason:

This system is covered in B0504-01-2 HQHTASI, appearing with minor revisions in the amendment section of this document.

B504-02-2 HQHTA

System Name:

Special Security Briefing and Debriefing Files (44FR74039) December 17, 1979

Reason:

This system is covered in B0504-01 HQHTA, appearing with minor revisions in the amendment section of this document.

B0602-03 HQHTASI

System Name:

Organization Files (44FR74041) December 17, 1979

Reason:

The records are not retrievable by name or any other personal identifier and not a system of records as defined in 5 U.S.C. 552a. (5).

B0608-07 HTA

System Name:

Civilian Training Program Files (44FR74047) December 17, 1979

Reason:

This system is covered by B0608-06 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0608-08 HQHTASI

System Name:

Training Files (44FR 74047) December 17, 1979

Reason:

This system is covered by B0608-06 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0608-09 HQHTASI

System Name:

Contract Training Files (44FR74048) December 17, 1979

Reason:

This system is covered by B0608-06 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0608-10 HQHTASI

System Name:

Record of Training Files (44FR74048) December 17, 1979

Reason:

This system is covered by B0608-06 HQHTASI, appearing with minor revisions in the amendment section of this document.

B0609-05-2 HQ

System Name:

Comptroller/Financial Management Civilian Career Referral System Files (44FR74049) December 17, 1979

Reason:

This system has been discontinued and no longer used within the Agency.

B0615-02 HQHTASI

System Name:

Federal, State and Professional Safety Council and Committee Files (44FR74055) December 17, 1979

Reason:

This system is not a system of records as defined in 5 U.S.C. 552a. (5).

B1211-06 HQHTA

System Name:

Tansportation Officer Appointment Files (44FR74063) December 17, 1979

Reason:

This system is covered in B1211-07 HQHTSID, appearing with minor revisions in the amendment section of this document.

Amendments

B0401-02 HQHTA

System Name:

Statement of Employment Financial Interest Files (44FR74029) December 17, 1979

Changes:

System Name:

Add "and Ethics Act" after the word "Interest"

System Location:

Delete the entire entry and insert "Office of the General Counsel, HQ DMA, Offices of the Counsel, DMAHTC and DMAAC." "See DMA Directory for complete address listing."

Categories of Individuals covered by the System:

At the beginning of the first sentence before the words "Defense Mapping Agency" insert "DD 1555-". Insert the following additional paragraph "SF 278—DMA civilian personnel classified at GS-16 or above of the General Schedule prescribed by 5 U.S.C. Section 5332 and military officers serving in grades of 07 or above and the DMA designated Agency Ethics Official."

Categories of Records in the system:

Delete the entire entry and insert "Files include SF 278's—Executive Personnel Financial Disclosure Report and DD 1555's—Confidential Statement of Employment and Financial Interests containing information as to outside employment, financial interests and creditors. Such forms are filed by individuals upon employment and renewed annually. Copies of the individual's current position description. Signed statements of the individual concerned stating that none of the interests listed constitute a conflict of interest with respect to the duties of his present position. Correspondence indicating review and the resolution of any conflicts disclosed."

Authority for maintenance of the system:

Add "Ethics in Government Act of 1978 (PL 95-521), 5 C.F.R. Section 734.603.".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the fourth paragraph, after the word "Director", delete the word "Headquarters."

Retention and disposal:

Delete the words "This is a temporary record" and insert "These are temporary records." Delete the words "the record" and insert "DD Form 1555." At the end of the paragraph insert "SF 278 is retained six years from date of submission."

Record source categories:

Delete the entire entry and insert "Statements and related documents are obtained from the individual concerned."

B0402-05 HQHTA

System Name:

Personal Property Claims Files (44FR 74030) December 17, 1979

Changes:

System Name:

Change the name to "Legal Claims File" to correctly identify the same categories of information consolidated from systems B0402-06, B0402-13, and B0403-12 which are deleted in the deletion section of this document.

System location:

Primary system. Insert "General" after the word "of".

Categories of individuals covered by system:

Add the following paragraph after the first sentence, "Any individual filing a tort claim against DMA for damages,

loss or destruction of property and for personal injury or death resulting from negligence or wrongful act or omission of acts by DMA personnel and individuals against whom the Agency has legal claim."

Categories of records in the system:

Delete the entire entry and substitute the following "File contains individual's claims, related correspondence and processing papers, investigative reports, recommendations of the investigators and opinions of Counsel."

Authority for maintenance of the system:

Add the following paragraph "28 U.S.C., Section 2671–2680, Federal Torts Claims Act."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the first paragraph at the end of the sentence, remove the period and insert "and in the case of Agency claims, for attempted settlement and/or litigation." In the second paragraph at the end of sentence, remove the period and insert "or designated local government representatives who have delegated authority to investigate and/or settle claims."

Retrievability:

At the end of the sentence remove the period and insert "or by case name."

Retention and disposal:

Delete the entire entry and insert "Approved claims and agency claims—10 year record, COFF on final action, inactive for one year, transfer to records holding area, hold nine years and destroy. Disapproved claims and claims involving personal injury or a minor, COFF on final action, hold one year inactive, transfer to records holding area, hold one year and transfer to Washington National Records Center. Hold 23 years and destroy."

Records access procedures:

Delete the second sentence which reads "Requests from individuals should be addressed to the appropriate organization indicated in address list."

Record source categories:

Delete the entire entry and insert "Related forms, correspondence, investigative reports and information gathered in anticipation of litigation, and opinions of Counsel."

B0502-03-2 HQHTASI

System Name:

Classified Material Access Files (44FR74033) December 17, 1979

Changes:

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

B0502-15 HQHTASI

System Name:

Security Compromise Case Files (44FR74034) December 17, 1979

Changes:

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insert the following after the first sentence: "Supervisors on a need to know basis and as a quick reference system on security violations."

B0503-02 HTASI

System Name:

Security Identification Accountability Files (44FR74034) December 17, 1979

Changes:

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

B0503-09

System Name:

Key Accountability Files (44FR74036) December 17, 1979

Changes:

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

B0504-01 HQHTA

System Name:

Personnel Security Files (44FR74037) December 17, 1979

Changes:

System Name:

Insert "Special" after the word "Personnel."

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

System manager and address:

Insert "Special" after the word "ATTN:" Delete the numbers "4411" and insert "4603."

B0504-01-2 HQHTASI

System Name:

Personnel Security Files (44FR74037) December 17, 1979

Changes:

Categories of records in the system:

Delete the words "Central Treaty Organization (CENTO)" and "Top Secret CENTO".

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

B0504-01-3 HQHTA

System Name:

Personnel Security Investigative Files (44FR74038) December 17, 1979

Changes:

Authority for maintenance of the system:

Delete the entire entry and insert "EO 12065, National Security Information, June 28, 1978."

B0601-03 HQHTASI

System Name:

Advanced Personnel Data System—Civilian (APDS-C) (44FR74040) December 17, 1979

Changes:

System Name:

Delete the word "Advanced" and change "(APDS-C)" to "(PDS-C)."

B0608-06 HQHTASI

System Name:

Civilian Training Reporting Files (44FR74046) December 17, 1979

Changes:

System Name:

Delete the word "Reporting".

Categories of individuals covered by the system:

Delete the last three entries which read "Civil Service Commission,

Supervisory Personnel, Members of Personnel Office".

Categories of records in the system:

Delete the entire entry and insert "Central Personnel Data Reports; Career Plans for certain Executives and Managers, GS-13 and above; Documents reflecting nominations, enrollment, registration, records of training and related material; contract training in non-government and government facilities."

Retention and Disposal:

Delete the entire entry and insert "Training reports files are destroyed after five years; contract files are destroyed 3 years after completion of training or upon expiration of obligated service agreement; all other training records are reviewed annually and the portion pertaining to individuals no longer employed with the Agency are destroyed."

B0615-07 HQHTASI

System Name:

Safety Awards Files (44FR74055) December 17, 1979

Changes:

System Location:

Delete "Safety Offices" and insert "Logistic Offices."

Retention and Disposal:

Delete the entire entry and insert "Temporary record, held for two years and destroyed."

System Manager and address:

Delete "Facilities Engineering Office" and insert "Logistics Office." Delete the numbers "4477" and insert "4475."

Record source categories:

After the word "individual" delete "and all correspondence between the Safety Office and the National Safety Council."

B1211-07 HQHTA

System Name:

Individual Governnment Transportation Files (44FR74063) December 17, 1979

Changes:

System Identifier:

Add "SID"

Authority for maintenance of the system:

Add "45 U.S.C. 5707—Travel and Substance Expense Regulation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insert after the first sentence "Used to record authorization for travel, issue orders, make travel arrangements and prepare vouchers for any reimbursement."

Safeguards:

In the second sentence after the word "in" insert "locked cabinets and".

System Manager and address:

Delete the word "Logistics" and insert "Administration". Delete the numbers "4475" and insert "4424".

3. The file line should have appeared immediately following the document on page 79875, the third Column: "[FR Doc. 80-37123 filed 12-1-80; 8:45 am]".

BILLING CODE: 1505-01-M

Corps of Engineers, Department of the Army: Intent To Prepare a Draft Environmental Impact Report/ Environmental Impact Statement for the Sepulveda Basin Master Plan, Los Angeles, California

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact report/ environmental impact statement.

SUMMARY: 1. Proposed Action: The proposed Mater Plan and draft Environmental Impact Report/ Environmental impact Statement (EIR/ EIS) reflects the Sepulveda Basin as a regional park oriented to the population and area of the four districts surrounding the Basin: Encino-Tarzana, Reseda-West Van Nuys, Van Nuys-North Sherman Oaks, and Sherman Oaks-Studio City. The Sepulveda Basin is the only large-scale public open space centrally located to the 335,000 people living in the four districts. Approximately 880 acres are presently used for recreation purposes and 150 acres for non-recreation uses. The remaining land is occupied by roads, right-of-way, and flood control structures.

There are approximately 540 acres of land available for future recreation use in the propose draft Master Plan, including the area occupied by the Los Angeles River Channel between Balboa Boulevard and Burbank Boulevard. This is equivalent to 61 percent expansion of the land now used for recreation and related uses.

The proposed plan envisions 220 acres of additional informal park area, 20 acres for a community tennis and swimming complex, 50 acres of additional playfield area in Hjelte Park, 60 acres of additional wildlife area, a 120 acre recreation-rowing lake and a 60-acre area for an Arts Park. Ten acres would be dedicated to a driving range and incidental improvements. A pedestrian-bicycle corridor of approximately 3.3 miles would follow the northern edge of the Los Angeles River and the proposed lake, linking the various park areas together across the length of the basin. The proposed recreation-rowing lake is being considered as the site for the rowing and canoeing events in the 1984 Summer Olympics.

2. Alternatives: Early in the study plan Alternatives A and B were formulated to provide contrasting approaches to recreation development. Alternative A reflected an intensive, spectator-oriented program, including the facilities anticipated to accommodate Olympic events. Alternative B reflected an open park-like approach, with no sports facilities oriented to spectator activity and no large lake (rather a series of smaller lakes). These alternatives were reviewed with the agencies and citizen groups, and as a result of comments offered in the review, a third study, Alternative (Alt. C) was developed. Alternative C would be a regional park mainly serving the four surrounding districts of the Encino-Tarzana, Reseda-West Van Nuys, Van Nuys-North Sherman Oaks, and Sherman Oaks-Studio City. The intent of Alternative C is to provide a balanced array of recreational facilities and intensities of activity to serve the four surrounding districts. After a preliminary analysis of the effects of the three study alternatives (and the "no-build" alternative), the proposed draft Master Plan was devised. While the draft Master Plan is a composite of features and of responses to the study alternatives, its characteristics are mainly those of Alternative C, with the principal variation being the incorporation of the large recreation-rowing lake between Balboa and Burbank Boulevards and the accommodation of the Arts Park on land east of Balboa Boulevard.

3. Scoping Process: The draft EIR/EIS has been combined with the draft updated Master Plan for Sepulveda Basin so that the environmental analysis and mitigation measures could be applied in the refinement of the draft Master Plan. Once the objectives and concerns of the agencies and the citizen organizations invited into the study were identified, a land use concept was established as a framework for the

alternative plans. The Master Plan and draft EIR/EIS have been developed in close coordination with the City of Los Angeles and other local government officals, special interest groups and the interested public. Public involvement undertaken thus far in the preparation of the Master Plan and draft EIR/EIS has consisted of two rounds of group workshop sessions and the solicitation of comments and information from the individuals and organizations represented in the workshops.

4. Future meetings: Two final public hearings will be held in December 1980.

5. Publication of draft EIR/EIS. The draft EIR/EIS is expected to be available to concerned agencies and the interested public for review and comment by December, 1980.

ADDRESS: Comments about the proposed action and draft EIR/EIS can be answered by Mr. Robert Joe, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053, (telephone (213) 688-5413).

Dated: December 4, 1980.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 80-38478 Filed 12-11-80; 8:45 am]

BILLING CODE 3710-KS-M

Intent To Prepare a Draft Environmental Impact Report/ Environmental Impact Statement for the New Construction and Refurbishment Projects—1984 Olympic Games, Los Angeles, California

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact report/ environmental impact statement.

SUMMARY: 1. Proposed Action: The draft environmental impact report/ environmental impact statement (EIR/ EIS) discusses the potential environmental effects of new construction and refurbishment projects at seven locations throughout the Los Angeles Metropolitan Area. These sites are proposed for facilities that would be available for long-term recreational use of the citizens of Los Angeles as well as for short-term use during the 1984 Olympic Games.

The following discussion briefly describes the facilities proposed for new construction or refurbishment.

a. *Exposition Park*

Numerous remodeling and refurbishment improvements are proposed for the Los Angeles Memorial Coliseum. These improvements would upgrade the existing track and field facilities, dressing rooms and other support facilities, spectator and other structural improvements, and a variety of support improvements.

b. *Los Angeles Harbor College*

Los Angeles Harbor College has been proposed as a site for construction of a new velodrome. A vacant, 21-acre parcel on the Harbor College campus adjacent to the Harbor Regional Park has been identified for the new facility.

c. *Sepulveda Basin*

Three recreational facilities are proposed for Sepulveda Basin that could be used on a short-term basis for the Olympic Games: A swimming pool complex; a velodrome; and a recreation lake which would be used for rowing events. These would only be constructed if public funds become available.

d. *Jackie Robinson Stadium*

Refurbishment improvements are proposed in Jackie Robinson Stadium at the Rancho Cienega Sports Center in West-Central Los Angeles. These projects include the replacement of 5,000 seats, installation of night lighting and a scoreboard, playing field and practice field improvements, and construction of additional parking.

e. *Los Angeles Southwest College*

Los Angeles Southwest College is being considered as a potential site for the Olympic swimming events. The College has proposed that an Olympic swimming complex/multi-purpose physical education facility be constructed. This sports complex would include multi-purpose gymnasium, a competition pool, diving well and warm-up pool, a hard court facility including tennis courts, volleyball courts and basketball courts, raquetball courts, and football/track and field facility.

f. *Hansen Dam*

The city is considering one permanent recreational facility for the Hansen Dam Recreation Area that could be used for the 1984 Olympics. A swimming stadium, as described above, or relocated temporary swimming pool described above, would be located in the area west of Osborne Street.

g. *Whittier Narrows*

Olympic shooting competition is proposed for the existing Whittier Narrows Shooting Facility, which is operated by the County Department of Parks and Recreation. These existing facilities will require expansion and some new construction to accommodate the Olympic events.

2. Alternative: Seven sites have been identified and analyzed for their suitability for the remaining three new construction and four refurbishment projects needed to implement the Olympic Games. The analysis focused on the long-term effect of use of these facilities as well as the short-term impacts of their use during the Olympic Games and the cumulative effects of use of several facilities at one location. In this manner, the draft EIR/EIS can be of benefit for the remaining decisions necessary to implement the Games and provide long-term recreational facilities.

3. Scoping Process: Significant public participation has preceded the preparation of this EIR/EIS. In July 1979, the City of Los Angeles conducted two public hearings to solicit public comments regarding alternative sites for sports requiring newly constructed or refurbished facilities. An Agency Task Force was established in April 1980, and nine small group interviews with citizen representatives from throughout the region were held from May to July 1980. Numerous interviews and meetings with key staff personnel of affected agencies throughout the region were also conducted.

4. Future meetings: A final public hearing will be held in December 1980.

5. Publication of draft EIR/EIS: The draft EIR/EIS is expected to be available to concerned agencies and the interested public for review and comment by December 1980.

ADDRESS: Comments about the proposed action and draft EIR/EIS can be answered by Mr. Robert Joe, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, CA 90053, (telephone (213) 688-5413).

Dated: December 4, 1980.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 80-38479 Filed 12-11-80; 8:45 am]

BILLING CODE 3710-KS-M

DEPARTMENT OF EDUCATION

Commission on the Review of the Federal Impact Aid Program; Meeting

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979, will hold a business meeting on January 29, 1981, in Arlington, Virginia, and January 30, 1981, in Washington, D.C. The meeting will be open to the General public, and all interested persons are invited to attend. Notice of the meeting is given in accordance with policies of

the Commission in favor of proper notice to the public of Commission proceedings and public participation therein.

DATE: January 29–30, 1981. The Commission will meet at 9:00 a.m. through 5:00 a.m.

ADDRESS:

January 29, 1980

The Hyatt Arlington, Ravensworth Room, Second Floor, 1325 Wilson Boulevard, Arlington, Virginia 22209; (703) 841–9595

January 30, 1981

Regional Office Bldg. (No. 3), Room 3652, 7th & D Streets, SW., Washington, D.C. 20201.

TENTATIVE AGENDA: The Commission members will consider adoption of a report and other Commission business.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, NW., Suite 837, Washington, D.C. 20036, tel. no. (202) 653–5817.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95–961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Pub. L. 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C., on the 8th day of December 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-38495 Filed 12-11-80; 8:45 am]

BILLING CODE 4000-1-M

Distribution of Federal Vocational Education Funds by State Boards for Vocational Education; Interpretation

AGENCY: Department of Education.

ACTION: Notice of interpretation—distribution of Federal vocational education funds by State boards for vocational education.

SUMMARY: The Secretary of Education issuing this Notice of Interpretation to clarify how she determines whether States are complying with the statutory requirements governing the distribution of funds under Part A of the Vocational Education Act (VEA.)

EFFECTIVE DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. Interpretations are transmitted to Congress several days before they are published in the Federal Register. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of this interpretation, call or write the Department of Education contact person.

ADDRESSES: Comments should be addressed to Dr. LeRoy Cornelsen, Director, Division of State Vocational Program Operations, U.S. Department of Education, (ROB–3, Room 5652), 7th & D Streets, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. LeRoy A. Cornelsen (202) 472–3440

SUPPLEMENTARY INFORMATION: Under Part A of the Vocational Education Act of 1963, as amended (20 U.S.C. 2301 *et seq.*) the Secretary makes grants to States to assist them in conducting needed vocational education programs. States, in turn, award these funds to local educational agencies (LEAs) and other eligible recipients (OERs) for the actual operation of vocational education programs. Section 106(a)(5) of the Vocational Education Act sets forth certain requirements governing the allocation of the Federal funds among the eligible applicants who apply to the States for them. The complexity of these allocation requirements has caused the States to request guidance in applying them. In particular, State vocational education administrators have asked for information about how the Secretary determines whether States are complying with these statutory requirements. Therefore, the Secretary is issuing the following interpretations. After each substantive section of the following interpretation a citation of legal authority has been provided.

Interpretation

(1) *Applicant Priority* (Section 106(a)(5)(A))

Section 106(a)(5)(A) of the Act provides that "the State shall, in considering the approval of [applications from LEAs and OERs], give priority to those applicants which—

(i) are located in economically depressed areas which have high rates of unemployment and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and Nation."

With respect to section 106(a)(5)(A), two basic questions have arisen:

Question: Must priority be given only to those applicants that are in economically depressed areas *and* propose new programs?

Answer: No. The Secretary believes that Congress intended these priority factors to have independent effect. Therefore, in applying these two priority factors, the State must assign the highest priority to those applicants that ae economically depressed *and* propose new programs. The State must also assign a priority to those applicants that are either economically depressed *or* propose new programs. That is, an applicant need not exhibit both factors (i) and (ii) to receive a priority status.

Question: May a State fund the application of an LEA or OER that is not given a priority status?

Answer: Yes. The legislative history of section 106(a)(5)(A) makes clear that Congress did not intend that only those applicants given a priority status could be funded. A State may fund the application of every eligible applicant if there are funds to do so. However, if a State chooses to fund the application of every eligible applicant, it must give weight to the priority factors described above in conjuction with the allocation factors described in section 106(a)(5)(B) of the Act when awarding Federal funds. In this way the continued significance of the priority status created by section 106(a)(5)(A) is ensured.

(Section 106(a)(5)(A) of the Vocational Education Act, as amended)

(2) *Funding Priority* (Section 106(a)(5)(B))

Section 106(a)(5)(B) of the Act provides that once applicants are approved for funding, the State must allocate the Federal funds based on "economic, social and demographic factors relating to the need for vocational education among the the various populations and the various areas of the State." Section 106(a)(5)(B)(i) goes on to explain that:

the State will use as the two most important factors in determining this distribution (I) in the case of [LEAs], the relative financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low income families or individuals within such agencies, and (II) in the case of [OERs], the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher than averages costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language.

With respect to section 106(a)(5)(B) three basic questions have arisen.

Question: If a State considers the priority factors described in section 106(a)(5)(A) of the Act in allocating Federal funds, must those factors individually be given less weight than the allocation factors described in section 106(a)(5)(B)(i)?

Answer: Yes. For both LEAs and OERs *each* of the two allocation factors described in section 106(a)(5)(B)(i) must receive greater weight than any of the other individual economic, social or demographic factors considered by the State in allocating Federal funds. Therefore, if a State approves the applications of all eligible applicants and gives weight to the priority factors described in section 106(a)(5)(A) in conjunction with the allocation factors described in section 106(a)(5)(B)(i), each of the allocation factors must be given greater weight than the priority factors. For example, if a State approves the application of all eligible applicants and wards 10 points for each of the allocation factors, it must award less than 10 points for each of the priority factors.

Question: Are the terms "relative number" and "concentration" synonomous?

Answer: Yes. The legislative history of this provision does not indicate that Congress intended to distinguish the two terms. Thus, for example, the relative number or concentration of low-income families or individuals within an LEA refers to that proportion of the population within the LEA that is low income. Similarly, the relative number or concentration of students whose education imposes higher than average costs served by an OER refers to that proportion of the total enrollment of the OER whose education imposes higher than average costs.

Question: How is "relative financial ability" determined?

Answer: The term "financial ability" as used in section 106(a)(5)(B)(i) of the Act is defined in Appendix A to 34 CFR Part 400. Relative financial ability is determined by comparing the financial ability of individual applicants. The same valuation criterion (for example, assessed value or market value) must be used for the purpose of comparison.

(Section 106(a)(5)(B) of the Vocational Education Act, as amended)

(3) *Application Requirements* (Section 108(b)(1))

Section 107(b)(l)(B)9ii) provides, in part, that State applications for Federal funds must "set out explicitly the proposed distribution of such funds among eligible [applicants], together with an analysis of the manner in which such distribution complies with . . . section 106(a)(5) relating to the distribution of Federal funds."

Question: Must a State include in each application a description of the priority factors (section 106(a)(5)(A)) and the allocation factors (section 106(a)(5)(B)) it will apply and the way those factors will be used to distribute Federal funds?

Answer: Yes. To satisfy section 108(b)(l)(B)(ii), this description must also include the amount of funds each LEA or OER would receive, either through grant or contract, as a result of the proposed distribution procedure.

(Section 108(b)(1) of the Vocational Education Act, as amended)

For Further Information Contact: Dr. LeRoy A. Cornelsen, Director, Division of State Vocational Program Operations, U.S. Department of Education, (ROB-3, Room 5652), 7th and D Streets, S.W., Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance Numbers 13.493, 13.495, 13.500, 13.503, 18.588)

Dated: December 9, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-38593 Filed 12-11-80; 8:45 am]

BILLING CODE 4000-01-M

Planning and Transitional Grants; Availability of Funds

AGENCY: Department of Education.

ACTION: Notice of availability of funds for planning and transitional grants.

SUMMARY: Applications are invited for new projects under the Emergency School Aid Act for planning grants and transitional grants.

Authority for this program is contained in Sections 604(b)(2), 606(a)(1)(E), and 608(a) of Title VI of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561 (20 U.S.C. 3194(b)(2), 3196(a)(1)(E), 3198(a)).

Planning grants are available to local educational agencies (LEAs). Transitional grants are available to LEAs and to State educational agencies (SEAs), other public agencies, and private nonprofit organizations that receive requests for assistance from LEAs.

Types of Assistance Available Under the Planning and Transitional Grant Programs:

(a) *Planning Grants.* A planning grant helps an LEA in the development of a desegregation or other qualifying plan. The need for this assistance may arise from a court or agency order requiring the development of a plan or an LEA's decision to develop a voluntary plan to prevent, reduce or eliminate minority group isolation.

(b) *Transitional Grants.* A transitional grant provides three types of assistance.

(1) *Pre-implementation assistance.* Pre-implementation assistance helps an LEA that has adopted but not implemented a required plan to prepare for the reassignment of children or faculty under the plan.

(2) *Out-of-cycle assistance.* Out-of-cycle assistance helps an LEA meet educational needs that arise from the implementation of a plan that was adopted too late to serve as the basis for an Emergency School Aid Act (ESAA) basic grant application in the regular funding cycle.

(3) *Special discretionary assistance.* Special discretionary assistance helps an LEA meet an unexpected educational need that arose from the implementation of a plan after the deadline for ESAA basic grant applications.

Closing Date for Transmittal of Applications: Applications for awards will be accepted at any time. However, applications received so late that they cannot be processed by September 30, 1981, will be returned to the applicant.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: *84.106A* (new), *84.106B* (continuations), Planning Grants; *84.107A* Pre-implementation Assistance Grants; *84.108A* Out-of-cycle Assistance Grants; or *84.109A* Special Discretionary

Assistance Grants, Washington, D.C. 20202.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information: The Secretary will consider for funding: (1) under a planning grant, an activity that is reasonably related to developing a qualifying plan; (2) under a pre-implementation assistance grant, any activity designed to meet an educational need that is reasonably related to the LEA's preparing for the reassignment of children or faculty under a qualifying plan; (3) under an out-of-cycle assistance grant, any activity designed to meet an educational need that arises from the implementation of a qualifying plan; and (4) under a special discretionary assistance grant, any activity designed to meet an unexpected educational need that arose from the implementation of a qualifying plan after the deadline for basic grant applications.

Available Funds: The Secretary anticipates that $29,500,000 will be made available for planning grants and transitional grants. This estimate does not bind the U.S. Department of Education.

Application Forms: Application forms and program information packages may be obtained by writing to the Division of Program Operations, Equal Educational Opportunity Programs, U.S. Department of Education, Room 2007, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program include the following:

(1) Regulations governing planning and transitional grants (34 CFR Part 280) published in the Federal Register on May 16, 1980 (45 FR 32586).

(2) The Education Division General Administrative Regulations, (EDGAR) 34 CFR Parts 75 and 77), published in the Federal Register on April 3, 1980 (45 FR 22494).

FOR FURTHER INFORMATION CONTACT: Dr. Shirley McCune, U.S. Department of Education, Room 2007, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-8484.

(20 U.S.C. 3191-3207)

(Catalog of Federal Domestic Assistance Numbers: 84.106A and 84.106B Planning Grants; 84.107A Pre-implementation Assistance Grants; 84.108A Out-of-Cycle Assistance Grants; 84.109A Special Discretionary Assistance Grants)

Dated: December 8, 1980.

Thomas K. Minter,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 80-38599 Filed 12-11-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, Coordinating Subcommittee of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Environmental Conservation will meet in February 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its third meeting on Wednesday, February 4, 1981, starting at 10:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street Northwest, Washington, D.C.

The tentative agenda for the meeting follows:

1. Review progress of Task Groups.
2. Discuss schedule of Subcommittee and Task Group assignments.
3. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 1, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

December 1, 1980.

[FR Doc. 80-38639 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Amendt Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

EFFECTIVE DATE: September 9, 1980.

COMMENTS BY: January 12, 1981.

ADDRESS: Send comments to: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market Street, San Francisco, CA 94105, telephone (415) 764.7038.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market St., San Francisco, CA 94105; telephone (415) 764-7038.

SUPPLEMENTARY INFORMATION: On September 9, 1980, the Office of Enforcement of the ERA executed a Consent Order with Amendt Oil

Company of San Bernardino, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Amendt Oil Company, with its home office located in San Bernardino, California, is a firm engaged in the sale of motor gasoline, and is subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Amendt Oil Company (Amendt), the Office of Enforcement, ERA, and Amendt entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order resulted from an audit of Amendt's allocation of gasoline during the period March 1979 through April 1980.

2. The Office of Enforcement alleged that Amendt failed to supply Gale Barstow, Inc. (Barstow), with its total allocation entitlement of gasoline, in violation of the provisions of 10 CFR Part 211. The entitlement volume exceeded the volume supplied by 541,000 gallons.

3. During the period May–August 1980, Amendt offered to supply Barstow with 50,000 gallons each month above Barstow's allocation entitlement. These offers were made for the specific purpose of satisfying any claims arising out of Amendt's and Barstow's supplier/purchaser relationship during the period April 1979 through April 1980.

4. Amendt, without admitting that it had violated any regulations, willingly entered into this Consent Order as a means of settling this dispute with the DOE, thus permitting it to avoid the expense of protracted litigation.

5. Beginning in September 1980, Amendt shall offer Barstow 50,000 gallons each month in addition to Barstow's entitlement. If Barstow does not pull the entire amount of refund gallons offered, the entire amount of refund gallons offered will nevertheless be deducted from the balance due. Refund gallons offered will total 341,000. The refund gallons shall be priced at Amendt's most recent acquisition cost, plus the margin which existed during the audit period between Amendt's maximum lawful selling price to its reseller class of purchaser and its weighted average unit cost of product. Additionally, Barstow shall have the option of pulling from its entitlement at this refund price; total gallons purchased under this option will be deducted from the 341,000 gallons due. The refund gallons shall only be taken from surplus product.

6. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market Street, San Francisco, CA 94105. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 764-7038.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Amendt Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on January 12, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco on the 30th day of November 1980.

Lon W. Smith,

District Manager, Office of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-38638 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Capco Pipe Company, Inc.; Recertification of Eligible Use of Natural Gas to Displace Fuel Oil

[ERA Docket No. 80-CERT-041]

On November 4, 1980, Capco Pipe Company, Inc. (Capco), formerly Cement Asbestos Products Company, 1400 Twentieth Street, South, P.O. Box 3435, Birmingham, Alabama 35255, filed an application pursuant to 10 CFR Part 595 with the Administrator of the Economic Regulatory Administration (ERA) for recertification of an eligible use of up to 575 Mcf of natural gas per day which is estimated to displace the use of up to 4,164 gallons (99 barrels) of No.-2 fuel oil (0.12 percent sulfur) per day at the Capco's production facility in Ragland, Alabama. The eligible seller of the natural gas is Alabama Gas Corporation and the gas will be transported by Southern Natural Gas Company. Notice of that application was published in the Federal Register (45 FR 76510, November 19, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On December 28, 1979, Capco received the original certification (ERA Docket No. 79-CERT-107) of an eligible use of natural gas purchased from Alabama Gas Corporation for use at the Ragland facility for a period of one year. The originial certificate expires on December 27, 1980. This recertification is being made effective on December 28, 1980, in order to provide continuity with the original certificate.

The ERA has carefully reviewed Capco's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Capco's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on December 7, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-38558 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Lundells Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street NW., Washington,

D.C. 20461, Telephone No. (202) 653-3517.

SUPPLEMENTARY INFORMATION: On August 22, 1979, the Office of Enforcement of the ERA published notification in the Federal Register that it executed a Consent Order with Lundell's Inc., (LUN) of Freer, Texas on August 7, 1979, 44 Fed. Reg. 49291 (1979). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by LUN pursuant to the Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order was therefore not modified.

Pursuant to the Consent Order, LUN refunded the sum of $71,083.60 by certified check made payable to the United States Department of Energy on October 17, 1979. This sum received by DOE has been placed into a suitable account pending determination of its proper distribution.

The following person submitted a claim to the ERA: Tesoro Petroleum Corporation.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $71,083.60 or ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 5, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 8th day of December, 1980.

Robert D. Gerring,

Director Program Operations Division.

[FR Doc. 80-38641 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52224-9999-45, 51209-9999-99-45]

Pacific Gas and Electric Co. and Gulf States Utilities Co.; Extension of Time for Filing of Petitions

AGENCY: Economic Regulatory Administration.

ACTION: Notice of extension of time for filing of petitions for System Compliance Plans pursuant to the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: ERA has received petitions requesting approval of system compliance plans from Pacific Gas and Electric Company, San Francisco, California, and Gulf States Utilities Company, Beaumont, Texas (Petitioners). ERA published in the Federal Register on September 5, 1980 (45 FR 58948) its determination, pursuant to 10 CFR 501.3(f), that the Petitioners' petitions were incomplete. ERA notified the Petitioners of the appropriate steps that they should take within 90 days to cure the defects in their petitions.

Pursuant to 10 CFR 501.3(f) and 501.5, ERA has determined to extend, for the reasons noted below, the time period for the Petitioners to cure their incomplete petitions.

SUPPLEMENTARY INFORMATION: The Powerplant and Industrial Fuel Use Act of 1978. (FUA or the Act) prohibits existing electric powerplants from using natural gas as a primary energy source on or after January 1, 1990, and from using natural gas as a primary energy source before 1990 unless they burned natural gas in 1977, and then in no greater proportion than the average yearly proportion used by such powerplants in the calendar years 1974 through 1976. The Act provides, however, that such powerplants shall be considered in compliance with such prohibitions if there is in effect an approved plan of system compliance for the utility that owns or operates the powerplants.

The Economic Regulatory Administration's (ERA) regulations implementing the electric utility system compliance provisions are set forth at 10 CFR 504.4 (45 FR 53682, August 12, 1980). The regulations required a submission of certain elements of a proposed plan by January 1, 1980, and all additional submissions to complete a proposed plan by August 1, 1980.

1. Pacific Gas and Electric Company's proposed plan for system compliance excluded planned cogeneration facilities on the grounds that such facilities are not baseload powerplants. An approved system compliance plan would contain a commitment not to use natural gas or petroleum in any new baseload powerplant.

Pursuant to 10 CFR 501.130, *et seq.* Pacific Gas and Electric Company filed a request dated, April 15, 1980, for a formal interpretation that the definition of "baseload powerplant" in FUA section 103(a)(18)(c) excludes a "cogeneration facility" as that term is defined in FUA section 103(a)(19). The Department of Energy has not yet responded to this request.

On November 5, 1980, Pacific Gas and Electric Company requested that ERA extend the time for Pacific Gas and Electric Company to cure its petition for a period of ninety days after their request for an interpretive ruling is acted upon.

2. Gulf States Utilities Comnpany (Gulf States) in its proposed plan for system compliance excluded its Louisiana Station No. 1, including each and every boiler and turbine unit, or group of units, thereof, on the grounds that the entire station constitutes a cogeneration facility not subject to the restrictions applicable to existing electric powerplants under FUA.

Pursuant to 10 CFR 501.30 et seq., Gulf States filed a request, dated August 18, 1980, for an interpretation that the units located at Louisiana Station No. 1, in Baton Rouge, Louisiana, are cogeneration units excluded from the definition of "electric powerplant" and "powerplant" under FUA section 103(a)(7)(B)(ii), and are major fuel burning installations which would not be subject to the prohibitions applicable to existing powerplants. The Department of Energy has not yet responded to this request.

It is ERA's determination that neither Pacific Gas and Electric Company nor Gulf States can file complete petitions for system compliance plans until the Department of Energy has responded to their requests for interpretation.

Therefore, pursuant to 10 CFR 501.3(f) and 501.5, ERA has determined to extend the time for the filing of a complete petition for a system compliance option for Pacific Gas and Electric Company, San Francisco, California, and Gulf States Utilities Company, Beaumont Texas, until ninety (90) days after the date the Department of Energy issues an interpretation or otherwise disposes of each Petitioner's request for an interpretation.

Any questions regarding this extension of time to file petitions should be directed to Mr. James W. Workman, Director, Powerplant Conversion Division, Office of Fuels Conservation, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128I, Washington, D.C. 20461, (202) 653-4268.

Issued in Washington, D.C. on December 8, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-38637 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Vaughn Petroleum Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street NW., Washington, D.C. 20461, Telephone No. (202) 653-3417.

SUPPLEMENTARY INFORMATION: On March 25, 1980, the Office of Enforcement of the ERA published notification in the Federal Register that it executed a proposed Consent Order with Vaugh Petroleum, Inc., (VPI) of Dallas, Texas on February 21, 1980, which would not become effective sooner than 30 days after publication, 45 FR 19298 (1980).

Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by VPI pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA. A second notice was published in the Federal Register, 45 FR 36119 (1980), which stated that no comments were received and therefore the proposed Consent Order was finalized.

Pursuant to the Consent Order, VPI refunded the sum of $1,250,000, by certified check made payable to the United States Department of Energy on July 18, 1980. This sum has been placed into a suitable account pending determination of its proper distribution.

The following persons submitted claims to the ERA: Mobil Oil Corporation, Defense Logistics Agency.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $1,250,000 or ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 5, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 8th day of December, 1980.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 80-38642 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3519-000]

Beaver Valley Power Co.; Application for Preliminary Permit

December 5, 1980.

Take notice that Beaver Valley Power Company (Applicant) filed on October 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3519 to be known as Patterson Hydro Project located on the Beaver River in Beaver County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert Gonze, Beaver Valley Power Company, P.O. Box 561, Sixth Street and Second Avenue, Beaver Falls, Pennsylvania 15010. Patterson Dam is owned by the Beaver Falls Water Power Company. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be run-of-the-river utilizing old facilities and would consist of: (1) an existing dam, approximately 700 feet long with 19.2 feet hydraulic head, constructed of rock-filled timber cribs with masonry buttresses and concrete facings; (2) a reservoir having negligible pondage and normal water surface elevation of 718.4 feet m.s.l.; (3) an old intake structure with three headgates at the entrance of (4) a forebay channel approximately 500 feet long; (5) vertical turbine shafts requiring repair; (6) two existing powerhouses restored to contain generating units having a total rated capacity between 4,500 kW and 8,400 kW; (7) two tailraces; (8) new transmission lines; and (9) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 43,000,000 kWh.

Purpose of Project—Project energy would be sold to adjacent Mayer China Company and possibly to nearby Republic Steel Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $45,000 and $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18

CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3519. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38511 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3379]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 4, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3379 to be known as the Applegate Project located on the Applegate River in Jackson County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the outlet tunnel of the Corps of Engineers' Applegate Dam, now under construction; (2) a powerhouse with a capacity of up to 19.26MW; and (3) an 8.8-mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 46,700 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to the Pacific Power and Light Company or other appropriate purchaser.

Proposed Scope and cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $75,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3379. Any comments, notices

of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38512 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3380]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 5, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3380 to be known as the Fern Ridge Project located on the Long Tom River in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Any person who wishes to file a response to this notice should read the entire notice and must comply witht the requirements specified for the particular kind of response that person wishes to file.

Project Description —The proposed project would consist of: (1) a penstock located adjacent to the existing spillway for the Corps of Engineer's Fern Ridge Dam; (2) a powerhouse with a capacity of 2.51 MW; and (3) a 0.1-mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 7,200 MWh.

Purpose of Project —Applicant states that energy produced by the project would be sold to the Pacific Power and Light Company.

Proposed Scope and Cost of Studies under Permit —Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible and application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing and license application would be $50,000.

Purpose of Preliminary Permit —A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for license.

Agency Comments —Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications —Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 7, 1981.* A notice of intent must conform with the requirements of 18 CFR $4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR $4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene —Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents —Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3380. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38513 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3382]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 5, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(4)] for proposed Project No. 3382 to be known as the Unity Project located on the Deschutes River in Baker County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529. Any person who

wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project description—The proposed project would consist of: (1) a penstock installed in the existing outlet tunnel of the Water and Power Resources Service's Unity Dam; (2) a powerhouse with a capacity of up to 1.38 MW; and (3) a one mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 4,100 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to an appropriate purchaser.

Proposed Scope and cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $37,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic,and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3382. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38514 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3383]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 4, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act. 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3383 to be known as the Owyhee Project located on the Owyhee River in Malheur County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the existing spillway tunnel of the Water and Power Resources Service's Owyhee Dam; (2) a powerhouse with a capacity of up to 16.38 MW; and (3) a 1.2-mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 82,500 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to the North and South Board of Control or other appropriate purchaser.

Proposed Scope and cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $132,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3383. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38515 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3384]

Cascade Water Power Development Corp., Application for Preliminary Permit

December 4, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3384 to be known as the Emigrant Project located on Emigrant Creek in Jackson County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the existing outlet tunnel of the Water and Power Resources Service's Emigrant Dam; (2) a powerhouse with a capacity of up to 1.7 MW; and (3) a short transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 6,900 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to the Pacific Power and Light Company or other appropriate purchaser.

Proposed Scope and Cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 6, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 7, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a

protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 6, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3384. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38516 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3445]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 4, 1980

Take notice that Cascade Water Power Development Corporation (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3445 to be known as the Agency Valley Project located on the North Fork Malheur River in Malheur County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the existing outlet tunnel of the Water and Power Resources Service's Agency Valley Dam; (2) a powerhouse with a capacity of up to 2.4 MW; and (3) a 2.5 mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 7,900 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to the Idaho Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that recieve this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.3 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3445. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washigton, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each

representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38517 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3446]

Cascade Water Power Development Corp.; Application for Preliminary Permit

December 5, 1980.

Take notice that Cascade Water Power Development Corporation (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3446 to be known as the Crane Prairie Project located on Deschutes River in Deschutes County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Holzman, P.O. Box 246, June Lake, California 93529. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock installed in the existing outlet tunnel of the Water and Power Resources Service's Crane Prairie Dam; (2) a powerhouse with a capacity of up to 600 kW; and (3) a 6.5-mile long transmission line.

The Applicant estimates that the average annual energy output would be a maximum of 2,900 MWh.

Purpose of Project—Applicant states that energy produced by the project would be sold to the Midstate Electric Cooperative or other appropriate purchaser.

Proposed Scope and Cost of Studies under Permit—Applicant proposes to study the environmental, hydraulic, power generation, construction, and economic aspects of the project to determine the feasibility of the proposed development. If the project should be feasible an application for license would be prepared. Applicant estimates that the costs of conducting the studies and preparing a license application would be $28,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be pesumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3446. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38518 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-60-000]

Cities Service Gas Co.; Application

December 5, 1980.

Take notice that on November 17, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP81-60-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a gas exchange between Applicant and Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas exchange agreement with Panhandle dated June 30, 1980, Applicant would exchange up to 8,000 Mcf of natural gas per day with Panhandle. The agreement, it is stated, is for a ten-year period and from year to year thereafter.

Panhandle has contracted to purchase gas from Anadarko Production Company and Pan Eastern Exploration Company from the Renfrow Prospect in Grant County, Oklahoma, it is asserted. Applicant would receive the gas into its existing pipeline in the area and redeliver such gas to Panhandle at existing points of interconnection in Kingfisher County, Oklahoma, or in Grant County, Kansas, it is stated.

Applicant submits that it has sufficient capacity in its system to provide this service without detriment or disadvantage to its existing customers.

It is stated that this is a gas-for-gas exchange with no monetary compensation to be paid by either party. The exchange would be balanced monthly, it is stated.

Applicant further requests authority to make an annual filing by January 31 of each year to incorporate any change in its tariff since additional points of delivery and receipt may be mutually agreed upon pursuant to the term of this exchange agreement as may be mutually convenient for the respective parties.

Any new facilities needed to effectuate this exchange agreement would be constructed under budget-type authority, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38519 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3578-000]

Continental Hydro Corp.; Application for Preliminary Permit

December 4, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3578 to be known as the Sanford Hydro Project located on the Canadian River in Hutchinson County, Texas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Water and Power Resources Service (WPRS) Sanford Dam which is operated and maintained by the Canadian River Municipal Water Authority and would consist of: (1) a new penstock utilizing the existing outlet works near the right dam abutment; (2) a new powerhouse containing generating units having a total rated capacity between 7,000 kW and 8,000 kW; (3) a tailrace; (4) transmission lines utilizing existing ones, if feasible; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be between 11,500,000 kWh and 13,600,000 kWh.

Purpose of Project—Project energy would be sold to the Southwestern Pulbic Service Company. Other alternatives, such as sale to nearby public institutions or industrial users, will be investigated.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $58,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 5, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or

petition to intervene must be filed on or before *February 5, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3578. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38500 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3576-000]

Continental Hydro Corp.; Application for Preliminary Permit

December 4, 1980.

Take notice that on October 16, 1980, Continental Hydro Corporation filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r) for proposed Project No. 3576 to be known as the Willwood Dam, to be located at the Water and Power Resources Service, U.S. Department of the Interior dam on the Shoshone River in the County of Park, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing Water and Power Resources Service, U.S. Department of the Interior dam. Project No. 3576 would consist of: (1) a proposed penstock approximately 175 feet long and 10 feet in diameter; (2) a proposed powerhouse containing three generating units having a total installed capacity of 15,000 kW; and (3) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 37,000 MWh.

Purpose of Project—Energy produced at the proposed project would be sold by Applicant to the Pacific Power and Light Company.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $65,000.00.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest for comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3576. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38520 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-66-000]

El Paso Natural Gas Co.; Application

December 5, 1980.

Take notice that on November 21, 1980, El Paso Natural Gas Company, (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-66-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing certiain diversion of delivery arrangements with its California customers through April 30, 1981, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Because of inadequate flowing gas supply during the past several winter seasons, Applicant states that it has entered into agreements with its California customers, Southern California Gas Company (So Cal) dated October 28, 1980 and Pacific Gas and Electric Company (Pacific Gas) dated October 28, 1980, which are designed to assist Applicant in protecting its East-of-California (EOC) customers' peak day Priority 1 and 2 requirements for the 1980-81 winter season. These arrangements (California back-off arrangements) would permit Applicant to divert otherwise scheduled deliveries to So Cal and Pacific Gas for the 1980-81 winter season, such quantities of natural gas not to exceed 200,000 Mcf daily from each company for use in EOC Priority 1 and 2 service, it is asserted. Applicant maintains that the diversions from the scheduled So Cal and Pacific Gas deliveries would be required only on peak days during the 1980-81 winter season when the quantities of natural gas otherwise available to Applicant's EOC customers even as augmented by volumes available through the Clay Basin interim storage arrangements (Clay Basin arrangements) and the Bammel delayed exchange arrangements with the Houston Pipeline Company are not sufficient in the aggregate to protect the Priority 1 and 2 EOC customer requirements.

Further, Applicant asserts that there is no present alternative by which peaking gas in the quantities required can be made available and the arrangement provides Applicant with a means of overcoming the physical limitations on daily deliverability available through the Clay Basin arrangements so as to permit the efficient utilization of Applicant's current storage inventories to provide peak day as well as seasonal coverage of EOC Priority 1 and 2 requirements.

It is stated that So Cal and Pacific Gas would allow the diversions of natural gas ony when in their sole judgment no impairment would result to service (1) to their own high priority customers and those of their wholesale customers; (2) to their remaining customers as required by California Public Utilities Commission's director, or (3) to Applicant's other California customers pursuant to a contract between them dated August 31, 1965, as amended and superseded. Moreover, Applicant states that the diversions would not exceed a cumulative net total of 2,000,000 Mcf at any one time.

Applicant asserts that pursuant to its agreements, it would exercise in-kind restoration (payback) to So Cal and/or Pacific Gas as soon as operationally possible after the diversions to which the payback relates. it is stated that payback gas would be made available to Applicant through the Clay Basin arrangements whereby the Clay Basin Storage Company would sell to certain of Applicant's EOC customers quantities of natural gas equal to the volumes previously diverted from So Cal and/or Pacific Gas. Contemporaneously, Applicant states that it would reduce its scheduled deliveries to these EOC customers and deliver the volumes to either or both California customers. Applicant asserts that So Cal and Pacific Gas would pay Applicant for the payback volumes received a unit rate equivalent to the rate applicable to Applicant's deliveries under its Rate Schedule G or whatever rate is in effect at the time to which the payback volumes relate. Applicant asserts that sufficient inventory currently exists in Clay Basin to accommodate the payback as proposed.

Further, it is asserted, in consideration of the respective participation of Pacific Gas and So Cal in the California back-off arrangements Applicant would reduce, as appropriate, its monthly billing to each of those customers by an amount equal to $1.90 per Mcf multiplied by the volumes in Mcf actually diverted from otherwise scheduled deliveries to each California customer during the preceding month. Applicant states that it would use its proposed Washington Ranch storage project as the primary means of providing load equation for Applicant's EOC customers in the future and that the $1.90 per Mcf billing credit proposed herein is reflective of the costs which are now anticipated to be associated with the load equation capabilities of the Washington Ranch storage project. It is stated that Applicant determined the $1.90 per Mcf California back-off billing credit by dividing the estimated cost of service for the Washington Ranch storage project during the third year of operation when it is anticipated that injections into and withdrawals from the storage project would reach full design levels (Which cost of service aggregates $26,075,000) by projected withdrawals for the third year of operation totalling 13,750,000 Mcf and that Pacific Gas and So Cal have agreed to the amount of the billing credit as so determined. It is futher asserted that the $1.90 billings would only be applied to Applicant's monthly billings to the California customers if, as and to the extent that the California back-off arrangements are actually utilized to protect service to the EOC Priority 1 and 2 requirements, whereas recovery of the costs associated with the Washington Ranch storage project would not be dependent on the use actually made of the load equation capabilities which the Washington Ranch storage project would make available.

Applicant asserts that each of the agreements requires that none of the costs incurred by Applicant thereunder shall be allocated in any of Applicant's rate proceedings to the cost of rendering service to its California customers or reflected in any way in the rates charged to said customers and that the requested authorization must so specifically provide.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38501 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-70-000]

Louisiana Resources Co.; Application for Approval of Rates

December 5, 1980.

Take notice that on November 12, 1980, Louisiana Resources Company (Applicant), 4100 One Williams Center, Tulsa, Oklahoma 74172, filed in Docket No. ST81-70-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement with United dated September 24, 1980, it has agreed to transport by exchange for United up to 5 billion Btu's of natural gas per day. Applicant states that deliveries were commenced on September 26, 1980.

Quantities of natural gas received in excess of the monthly exchange quantity would be returned to the delivering party, it is stated.

Applicant states that no charges will be assessed on either party since the proposed services are equal. Applicant asserts the charge obtained by Applicant is the performance by United of substantially equal services.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30 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). 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38504 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-46-000]

Mid Louisiana Gas Co.; Application

December 5, 1980.

Take notice that on November 10, 1980, Mid Louisiana Gas Company (Applicant), 2100 Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP81-46-000 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 certain pipeline facilities to connect new supplies of natural gas to its main transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated September 22, 1980, Applicant has contract with Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) for the transportation of natural gas purchased by Applicant from Quintana Refinery Company, *et al.* onshore to Applicant's system. Tennessee it is asserted, would initially transport the gas under its blanket transportation system authorization. The gas is produced in the West Cameron Block 32 Field Area, Cameron Parish, offshore Louisiana.

Applicant proposes herein to construct approximately 3.6 miles of 4½-inch O.D. pipeline from the producer's platform in West Cameron Block 32 to a point of delivery at the inlet of a processing plant operated by Phillips Petroleum Company at Hog Bayou in Cameron Parish, Louisiana, it is stated. The producers would measure the gas and have it processed for removal of water, liquids and/or liquefiable hydrocarbons, it is asserted. Residue gas would be delivered at the outlet side of the plant to Tennessee for the account of Applicant, it is stated.

Applicant estimates the total cost of the proposed facilities to be $1,250,000 to be financed by internally generated funds and short-term loans.

Applicant further states that it would be reimbursed by the producers at a rate of 20.0 cents per barrel for transporting their liquefied hydrocarbons. It is stated that the producer would reimburse Applicant for transporting the liquefiable hydrocarbons at a rate of 0.02 cent per Mcf per mile should the producer exercise the right to process the gas for removal of liquefiable hydrocarbons.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38502 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-61-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

December 5, 1980.

Take notice that on November 19, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-61-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it at the request of The Kansas Power and Light Company (Kansas Power), one of its distribution customers, to realign volumes within its authorized contract demand, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it has received a request from Kansas Power for realignment of its present contract demand volumes for certain of its Kansas communities to meet more effectively those communities' requirements for the 1980-81 heating season.

The specific realignment requested by Kansas Power and accordingly proposed herein by Applicant is as follows:

[In thousand cubic feet]

Community	Presently effective		Proposed	
	Contract demand	Seasonal service	Contract demand	Seasonal service
Beverly, KS	164	17	190	17
Bushton, KS	384		343	
Claflin, KS	605	19	595	19
Delphos, KS	441	18	420	18
Englewood, KS	123		80	
Holyrood, KS	513	35	500	35
Lorraine, KS	159	10	160	10
Miltonville, KS	543		545	
Tescott, KS	246	51	345	51
Total	3,178	150	3,178	150

Applicant asserts that this realignment requested by Kansas Power would neither increase nor decrease the presently authorized total contract demand volumes of Kansas Power.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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 providing for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-38503 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. ER78-490 and ER80-673]

Ohio Edison Co., Ohio Power Co.; Order Granting Rehearing and Clarifying Prior Commission Order

Issued: December 3, 1980.

On July 17, 1978, in Docket No. ER78-490, Ohio Power Company and Ohio Edison Company filed Supplement No. 5 to the interconnection agreement between the companies proposing to revise a schedule of charges for non-displacement energy supplied by one party to the other. By order issued August 16, 1978, the Commission accepted Supplement No. 5 for filing, effective as of June 26, 1978, and denied a request by certain Ohio Edison municipal customers to suspend the filing for one day. The Commission's order further initiated a hearing concerning the justness and reasonableness of the proposed rate.

Subsequently, in Docket No. ER80-673, Ohio Power and Ohio Edison, in Docket No. ER80-673, filed proposed Supplements No. 9 and No. 10 to their interconnection agreement in response to the Commission's Order No. 84 (issued May 7, 1980). These revisions proposed modifications to percentage adder provisions previously including in the parties' rates.

Supplement No. 9 eliminated a previous 15% adder applicable to purchase and resale transactions, and substituted therefor an adder of 1 mill per kWh. Supplement No. 10 contained a percentage adder of 10% applicable to emergency energy generated by the supplying party, but eliminated a 10% adder for emergency energy purchased by the supplying party from another system, and provided in lieu thereof, a demand charge of 2 mills per kWh and an energy charge of 1 mill per kWh.

By order issued October 3, 1980, in Docket No. RM79-29 and Docket Nos. ER80-592, et al., the Commission suspended portions of Docket No. ER80-673, and consolidated that proceeding with the ongoing proceeding which had been instituted in Docket No. Er78-490.

On November 3, 1980, Ohio Power and Ohio Edison filed an application for rehearing or clarification requesting specific identification of the portions of Docket No. ER80-673 which were suspended and consolidated for purposes of hearing and decison with Docket No. ER78-490.

For purposes of clarification of the October 3, 1980 order in Docket Nos. RM79-29, *et al.*, the Commission notes that Supplement No. 9 is in compliance with the Commission's Order No. 84, and is accepted for filing as of September 1, 1980. That portion of Supplement No. 10 which provides for a 10% adder for sales of emergency energy generated by the supplying party has not been revised and remains subject to investigation in Docket No. ER78-490. The portion of Supplement No. 10 which relates to emergency energy purchased by a supplier from another system and which proposes a demand charge of 2 mills per kWh and an energy adder of 1 mill per kWh is subject to the provisions of the Commission's Order No. 84. It is this portion of Supplement No. 10 which was found to be inadequately supported and which was suspended and consolidated with Docket No. ER78-490.

Petitioners further request that the effective date of Supplement No. 10 should be August 11, 1980, rather than September 2, 1980, as provided in the Commission's order of October 3, 1980. The petitioners base their request on the fact that they had requested an effective date of August 11, 1980, and did not seek an extension of time to September 1, 1980, as was provided in Order No. 84-B, issued August 11, 1980. The Commission will waive the notice requirements of section 35.3 of its

regulations, and will grant this request, insofar as the one day suspension imposed with respect to the above-mentioned portion of Supplement No. 10 shall begin on August 11, 1980. Thus, this segment of the filing shall become effective on August 12, 1980, subject to refund.

The Commission orders:

(A) The application for rehearing and request for clarification filed on November 3, 1980, by Ohio Power Company and Ohio Edison Company is hereby granted as provided in this order.

(B) For purposes of clarification, the Commission's order of October 3, 1980, in Docket Nos. RM79-29, *et al.*, shall be read to provide that Supplement No. 9 to the interconnection agreement between Ohio Power Company and Ohio Edison Company filed in Docket No. ER80-673 is accepted for filing without suspension as of September 1, 1980.

(C) For purposes of clarifying the Commission's order of October 3, 1980, in Docket Nos. RM79-29, *et al.*, the portion of Supplement 10 to the interconnection agreement between Ohio Power Company and Ohio Edison Company filed in Docket No. ER80-673 which provides for a 10% adder applicable to emergency energy generated by the supplying party remains subject to investigation in Docket No. ER78-590.

(D) For purposes of clarifying the Commission's order issued October 3, 1980, in Docket Nos. RM79-29, *et al.*, with respect to the portion of Supplement No. 10 of the interconnection agreement between Ohio Power Company and Ohio Edison Company filed in Docket No. ER80-673, which provides a rate for emergency energy purchased by the supplying party from another system, and which consists of a demand charge of 2 mills per kWh and an energy adder of 1 mill per kWh, waiver of the notice provisions of section 35.3 of the regulations is hereby granted and the submittal is accepted for filing, suspended for one day, made effective as of August 12, 1980, subject to refund, and consolidated for purposes of hearing and decision with Docket No. ER78-490.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38505 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-3359, et al.]

Phillips Petroleum Co., Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

December 5, 1980.

Tabulation, Page 2, *Atlantic Richfield Company*, Docket No. CI63-578, Issued: May 3, 1978.

Under column headed Docket No. and Date Filed, change "Docket No. CI63-578" to read "Docket No. CI63-538".

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38507 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-238]

Public Service Co. of Oklahoma; Granting Alternative Motion for Extension of Date for Filing Top Sheets

Issued: December 4, 1980.

On February 14, 1980, as completed on July 14, 1980, Public Service Company of Oklahoma (PSCO) submitted for filing proposed changes in its rates under the Markham Ferry Coordinating Agreement with the Grand River Dam Authority (GRDA). The Agreement provides for the coordination of operations between PSCO and GRDA through the interchange and sale of electric power and energy. The rates proposed by PSCO in this filing would result in an increase in revenues for PSCO for approximately $1,080,006, based on the estimated sales for the twelve months ending December 31, 1980. By order dated September 12, 1980, the Commission accepted PSCO's application for filing and suspended the rates for a minimum one-day period. Staff was ordered to file top sheets on or before December 5, 1980.

On November 21, 1980, PSCO filed a request that its rate increase application be approved as filed. In the alternative, PSCO has requested that the time for the filing of top sheets by staff be extended to March 2, 1981, in order to provide PSCO further opportunity to respond to data requests which have been submitted by staff.

No basis now exists for granting PSCO's petition for final approval of its rate increase application. As of this time the proposed rates have not been shown to be just and reasonable. Accordingly, the initial relief sought in the November 21 motion is premature. The time limit for the filing of top sheets by staff will be extended, however, to March 2, 1981, to permit satisfaction of the data requests.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38508 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-4820, et al.]

Texaco Inc. (Operator), et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

December 5, 1980.

Tabulation, Page 2, *Texaco Inc. (Operator)* Docket No. G-7063 (Issued: July 25, 1980).

Under column headed Docket No. and Date Filed, change "Docket No. G-7063" to read "Docket No. 7065".

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38509 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-62-000]

Transcontinental Gas Pipe Line Corp., et al.; Application

December 5, 1980.

Take notice that on November 19, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-62-000 a joint 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 certain pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate jointly approximately 5.16 miles of 10-inch pipeline and appurtenant metering, regulating and connecting facilities to attach a new source of natural gas in Vermilion Area Block 37, offshore Louisiana, under an agreement dated October 30, 1980. It is stated that the proposed facilities would connect a producer-owned platform in Vermilion Block 37 to the offshore portion of Transco's central Louisiana gathering system in Vermilion Block 25. Construction of the proposed facilities would begin in March 1981 and be completed in May 1981, it is asserted.

Applicants state that their respective existing and anticipated ownership

interests would reflect the ownership interests in Vermilion Block 37 and would be as follows:

Transco—50 percent
Southern—25 percent
United—25 percent

Applicants state that Transco would purchase a 25 percent interest in the reserves in the Vermilion Block 37 field from Diamond Shamrock Corporation and 25 percent from Kerr-McGee Corporation. It is stated that Southern and United each would purchase half of the 50 percent interest in the field presently owned by Pennzoil Offshore Gas Operators, Inc., through an intermediary, Sea Robin Pipeline Company.

It is asserted that the estimated proved reserves and maximum deliverability of the new field are 14,520,000 Mcf and 25,000 Mcf per day, respectively. Applicants anticipate the field would be ready to produce as soon as the proposed facilities are completed.

The estimated total cost of the proposed facilities of $4,660,000 would be financed initially through revolving credit arrangements, short-term loans and available cash, and later through permanent long-term financing programs.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38510 Filed 12-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3580-000]

William Symons, Jr., Application for Preliminary Permit

December 4, 1980.

Take notice that William Symons, Jr. (Applicant) filed on October 9, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3580 to be known as Piute Creek Project located on the Piute Creek in Mono County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: John Symons, P.O. Box 1267, Bishop, California 94556. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a buried intake structure located at a spring; (2) a buried 12-inch diameter penstock; (3) a powerhouse containing one generating unit rated at approximately 400 kW; and (4) a 1.1-mile long transmission line.

The Applicant estimates that the average annual energy output would be 2.8 million kWh.

Purpose of Project—The energy output of the project would be sold to the Southern California Edison Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of six months, during which time it would complete engineering and environmental studies, obtain water rights and agency approvals, and prepare a FERC license application. No new roads would be required to complete the studies.

The estimated cost of the work to be performed under the preliminary permit is $25,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 17, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 20, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 17, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all

capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3580. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38506 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP72-99 and TC79-6]

Transcontinental Gas Pipe Line Corp.; Order Granting Rehearing and Setting Compensation Issue for Hearing

Issued: December 8, 1980.

By order of August 4, 1980, 12 FERC ¶61,130, we approved a settlement providing for compensation on the system of Transcontinental Gas Pipe Line Corporation ("Transco") for the 1974–1975 period and denied compensation for two subsequent periods. Philadelphia Gas Works ("PGW") has sought rehearing of our action approving the settlement for the earlier period. Consolidated Edison Company of New York, Inc. ("Con Ed") by Application For Rehearing filed September 3, 1980, objects to our denial of compensation for 1976–1978. Also, on September 22, 1980, South Jersey Gas Company petitioned for reconsideration of our denial of compensation for the 1976–1978 period. Elizabethtown Gas Company ("Elizabethtown") and State of North Carolina and North Carolina Utilities Commission (collectively, "North Carolina") filed applications for rehearing objecting to our denial of compensation for the 1976–1978 period as well as our decision that compensation is not required post-1978.

It is our belief that the August 4, 1980 order produced an overall result which is reasonable. Thus, for example, any potential detriment to PGW flowing from the approval of the 1974–1975 settlement was offset by our rejection of compensation for the subsequent periods, particularly 1976–1978. Obviously, the reciprocal would also be true, that is, the fact that compensation was rejected for the 1976–1978 period would be counter-balanced by the current distribution of funds from the settlement for the 1974–1975 period. The parties seeking rehearing, however, have manifested their unwillingness to view the Commission's action in this light. Each supports only so much of the Commission's offering as suits its immediate financial interest, buttressing its opposition by contentions that the approval of the 1974–1975 period is not adequately supported (in PGW's case) or that the requirement for hearing pertaining to compensation has not been satisfied for the subsequent periods (*e.g.*, Con Ed application at 5; North Carolina at 3; Elizabethtown at 3; South Jersey at 3–4).

In light of all these objections, we find that the appropriate course is to set the issue of compensation for all three periods on Transco's system for hearing before an administrative law judge. If it appears worthwhile to the judge, hearings may be briefly deferred for purposes of affording the parties an opportunity to conclude this matter by way of settlement. Otherwise, the matter shall proceed to hearing with reasonable expedition. In such event, we desire that the compensation issue be evaluated in light of the precedent established in Opinion No. 92, *Texas Eastern Transmission Corporation, et al.*, Docket Nos. RP71–130, *et al.* (issued August 4, 1980).

The August 4, 1980 order in *Transco* stated that Chief Administrative Law Judge Wagner's "August 16, 1979 Report will be approved and it and his earlier decision in Docket No. RP75–51 are adopted in response to the Court's inquiries as to Transco's supply situation." Order at 3, note 7. We affirm that position. Further activity directed toward the supply inquiry will be unnecessary. Rather, the question to now be considered by the Presiding Judge and the parties is the one previously reserved by the Commission, that is, "the legality of compensation in the 1974–1975 curtailment plan. . . ." August 16, 1980 Report To The Commission, Docket No. TC79–6, at 10. The Presiding Judge's initial decision shall address this issue for the 1974–1975 period as well as for subsequent periods.

The Commission orders:

(A) That rehearing of our August 4, 1980 order in Docket Nos. RP72–99 and TC79–6 is granted to the extent described in the text hereof.

(B) That a hearing be held to consider the question of whether, and if so, how compensation should be provided on Transco's system for the periods 1974–1975, 1976–1978 and post-1978.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see delegation of Authority, 18 CFR 3.5(d)), shall preside at the prehearing conference and subsequent hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions (with the exception of motions to consolidate or sever and motions to dismiss), as provided by the Rules of Practice and Procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38473 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-30-000]

Trunkline Gas Co.; Change in Tariff

December 8, 1980.

Take notice that on November 14, 1980 Trunkline Gas Company (Trunkline) tendered for filing the following revised sheet to its FERC Gas Tariff, Original Volume No. 1: Thirty-Fourth Revised Sheet No. 3–A

An effective date of January 1, 1981 is proposed.

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 96 issued September 30, 1980 in Docket No. RP80–108. Ordering Paragrah (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1, 1981. This adjustment will permit the collection of 5.6 mills per Mcf (5.4 mills when adjusted for Trunkline's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intevene 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 26, 1980. 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. 80-38474 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3631-000]

Worumbo Hydro, Inc.; Application for Preliminary Permit

December 8, 1980.

Take notice that Worumbo Hydro, Incorporated (Applicant) filed on October 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3631 to be known as the Pejepscot Project located on the Androscoggin River in the Towns of Brunswick and Topsham, Sagadahoc and Cumberland Counties, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mark Isaacson, Worumbo Hydro, Inc., P.O. Box 465, Lisbon, Maine 04250. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The project now consists of an existing dam and powerhouse at the Pejepscot Mill containing turbine-generators with a total rated capacity of 1,500 kW. Applicant proposes to study the feasibility of the installation of four 2.5 MW turbine-generators in a new powerhouse at the west end of the existing dam. A new tailrace channel would also be constructed. The Applicant estimates that the average annual energy output would be about 55,000,000 kWh annually saving the equivalent of 90,300 barrels of oil or 25,400 tons of coal.

Purpose of Project—Markets for the electric energy produced would be determined during the term of the preliminary permit.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Application would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $293,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 9, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3631. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-38475 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3604-000]

American Hydro Power Co.; Application for Preliminary Permit

December 8, 1980.

Take notice that American Hydro Power Co. (Applicant) filed on October 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3604 to be known as the Montgomery Worsted Mills Project located on the Wallkill River in Orange County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr.

Peter A. McGrath, American Hydro Power Co., Two Aldwyn Center, Villanova, Pennsylvania 19085. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing cut stone and concrete dam, 8 feet high and 150 feet long; (2) an existing powerhouse, 33 feet long and 20 feet wide with trash racks and three 10-foot wide bays; (3) three 250-kW turbine/generator units operating under a head of 8 feet; (4) a 70-foot long concrete retaining wall forming a tailrace 300 feet long and 40 feet wide; (5) a reservoir with a surface area of 30 acres and extending one mile upstream; (6) a 100-yard long, 4.16 kV transmission line; and (7) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 2,600,000 kWh.

Purpose of Project—The Applicant anticipates that all project power would be sold to New York State Electric and Gas Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $100,000 to $120,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3604. Any comments, notice of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38480 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-17-000]

Boeing Co.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued December 8, 1980.

Take notice that Boeing Company on October 29, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 30, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene or or before December 30, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room

1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38481 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-32-000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

December 8, 1980.

Take notice that Colorado Interstate Gas Company (CIG), on November 14, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1981.

The proposed tariff changes reflect the collection by CIG from certain of its customers the 5.6 mills per Mcf Gas Research Institute (GRI) Adjustment Charge authorized for collection by GRI by Commission Opinion No. 96.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested 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 Dec. 26, 1980. 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. 80-38483 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-51-004]

Great Lakes Gas Transmission Co.; Proposed Change in Gas Research Institute Charge

December 8, 1980.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on November 26, 1980, tendered for filing Thirty-Sixth-B Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective January 1, 1981.

Great Lakes states that the revised tariff sheet reflects the GRI adjustment related to the Gas Research Institute's 1981 Research and Development Program as approved by Commission Opinion No. 96 (RP80-108) issued September 30, 1980.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

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. 20425, 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. 26, 1980. 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 processing. 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. 80-38484 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3581-000]

Joseph M. Keating; Application for Preliminary Permit

December 8, 1980.

Take notice that Joseph M. Keating (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3581 to be known as El Portal Project located on the Merced River in Mariposa County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Joseph M. Keating, 847 Pacific Street, Placerville, California 95667. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: 1) a 15-foot high concrete gravity diversion dam; 2) an intake structure; 3) a 21,400-foot long power tunnel; 4) a powerhouse containing one generating unit rated at 7 MW; and 5) a 1,300-operated on a run-of-the-river basis.

The Applicant estimates that the average annual energy output would be 32 million kWh.

Purpose of Project—The energy output of the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering studies and surveys, make a historical review, consult with agencies, do preliminary designs and prepare a feasibility analysis, prepare an environmental report, review construction requirements, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant has filed a work plan for the studies for the new dam construction. The field studies to be conducted include four field trips to conduct surveys for the dam and impoundment, and no ground disturbing testing or exploration is proposed.

The estimated cost of the work to be done under the preliminary permit is $105,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 10, 1981. A notice of intent must conform with the requirements of 18

CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 9, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3581. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38485 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-53-001 (GRI81-1)]

Kansas-Nebraska Natural Gas Company, Inc.; Proposed Changes in FERC Gas Tariff

December 8, 1980.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) on Novembr 24, 1980 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes will adjust its rates charged its jurisdicational customers pursuant to the Gas Research Institute charge adjustment provision (Section 22) of its FERC Gas Tariff, Third Revised Volume No. 1. Such adjustment is to tack the increased GRI rate allowed, effective January 1, 1981, per Opinion No. 96 issued September 30, 1980.

Copies of the filing were served upon the company's jurisdictional customers, interested public bodies and all direct and indirect customers which will be subject to the incremental pricing provisions.

Any person desiring to be heard or make any protest with reference to this filing should, on or before December 26, 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) under the Regulations of 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 protests 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38486 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-7-001]

Kentucky West Virginia Gas Co.; Change in Rates

December 8, 1980.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 20, 1980, tendered for filing with the Commission the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, required by Commission's Order issued October 30, 1980, in settlement of its rate proceeding in Docket No. RP80-7:

a. Sixteenth Revised Sheet No. 27, Superseding Fifteenth Revised Sheet No. 27

b. Seventeenth Revised Sheet No. 27, Superseding Sixteenth Revised Sheet No. 27

c. Original Sheet No. 29

d. Original Sheet No. 30

e. Original Sheets No. 31-37

f. Eighteenth Revised Sheet No. 27, Superseding Seventeenth Revised Sheet No. 27

g. Nineteenth Revised Sheet No. 27, Superseding Eighteenth Revised Sheet No. 27

h. Twenty-First Revised Sheet No. 27, Superseding Twentieth Revised Sheet No. 27

Kentucky West states that a copy of its filing has been made upon all parties to this proceeding and any additional parties required to be served by Section 1.18(e)(i)(iv) of the Commission's Rules.

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 Sections 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 23, 1980. 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. 80-38487 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-48-000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 8, 1980.

Take notice that on November 26, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) in accordance with Commission Order No. 96, tendered for filing Tenth Revised Sheet No. 7 to its F.E.R.C. Gas Tariff, Original Volume No. 1. Michigan Wisconsin proposed an effective date of January 1, 1981 for said sheet.

This tariff sheet reflects a net increase of .08¢ per dekatherm in one-part rates and the commodity component of the two-part rate, as a result of an increase

in the GRI Adjustment of .56¢, as approved by the Commission in its Order No. 96, at Docket No. RP80-108, issued on September 30, 1980.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of tenth Revised Sheet No. 7 to be made and to become effective January 1, 1981.

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 Sections 1.8 and 1.10 of the Commission's Rules and Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1980. 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. 80-38488 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3597-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

December 8, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 22, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3597 to be known as Mississippi Lock & Dam No. 14 located on the Mississippi River in Scott County, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed powerhouse, located below the existing dam, with generating units having a total installed capacity of 23,000 kW; (2) proposed transmission lines; and (3) appurtenant facilities. Applicant would utilize an existing dam and reservoir owned by the U.S. Army Corps of Engineers. Applicant's facilities would be located on U.S. lands.

The Applicant estimates that the average annual energy output would be 145,000,000 kWh.

Purpose of Project—The power generated at the project would be sold to Iowa Power and Light Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it proposes to conduct economic, environmental, and engineering studies, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $50,000.

Propose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 7, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3597.

Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First ST., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38489 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-37-003]

Northwest Pipeline Corp., Change in Rates

December 8, 1980.

Take notice that on November 17, 1980, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 10 and as part of its Original Volume No. 2 Tariff Third Revised Sheet No. 2.

Second Revised Sheet No. 10 and Third Revised Sheet No. 2 reflects the revised funding unit for the Gas Research Institute ("GRI") approved by the Commission in Opinion No. 96 issued September 30, 1980. Such revised funding unit is proposed to become effective January 1, 1981.

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 Dec. 26, 1980. 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. 80-38539 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-28-000]

Panhandle Eastern Pipe Line Co.; Change in Tariff

December 8, 1980.

Take notice that on November 14, 1980, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Thirty-Sixth Revised Sheet No. 3-A
Thirteenth Revised Sheet No. 3-B

An effective date of January 1, 1981 is proposed.

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 96 issued September 30, 1980 in Docket No. RP80-108. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1, 1981. This adjustment will permit the collection of 5.6 mills per Mcf (5.6 mills when adjusted to Panhandle's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

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 26, 1980. 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 fo public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38543 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-8-000]

Phillips Petroleum Co.; Application for Adjustment

December 8, 1980.

On November 20, 1980, Phillips Petroleum Company (Phillips) filed with the Commission pursuant to § 1.41 of the Commission's Rules of Practice and Procedure, and application for an adjustment of § 154.94(h)(2)(iii) of the Commission's regulations under the Natural Gas Policy Act of 1978. Phillips seeks to waive the requirement of filing a rate change within the thirty days after a well catgegory determination becomes final. United Gas Pipeline Company purchases the gas produced from the OSC-0263, South Timbalier Blk 21, #116-D well operated by Gulf Oil Corporation. Gulf Oil filed for and received an affirmative determination for this well from the jurisdictional agency, USGS. The FERC noticed receipt of the determination on October 25, 1979, under FERC Control No. JD80-03983. Phillips claims that it received no timely actual notice that the well determination had been received by the Commission. Phillips seeks the waiver of the filing requirements of § 154.94(h)(2)(iii) as promulgated by Order No. 25 to permit collection of the NGPA Section 201(d) maximum lawful price from and after December 10, 1979, under Phillips' FERC Gas Rate Schedule No. 422.

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 provsions of Section 1.41. All petitions to intervene must be filed on or before December 29, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38544 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-84-M

[Project No. 3330]

Mr. Ronnie Powers; Application for Preliminary Permit

December 8, 1980.

Take notice that Mr. Ronnie Powers (Applicant) filed on August 19, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3330 to be known as High Shoals No. 3 Dam located on the South Fork Catawba River in Gaston County, near High Shoals, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ronnie Powers, 1224 Etheridge Mill Road, Griffin, Georgia 30223. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing High Shoals No. 3 Dam, a concrete structure approximately 400 feet long and 12 feet high; (2) proposed penstocks; (3) an existing powerhouse; (4) a proposed tailrace; (5) proposed transmission lines; (6) an existing reservoir without usable storage capacity; and (7) other appurtenant facilities.

The Applicant estimates that the average annual energy output would be 7.4 GWh.

Purpose of Project—Energy developed at Project No. 3330 would be sold to the Duke Power Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a

period of 36 months. The work to be performed under this preliminary permit will consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit will not exceed $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal requests for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 9, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3330. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol, Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38545 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-14-000]

Southwest Gas Corp.; Proposed Change in FERC Gas Tariff

December 8, 1980.

Take notice that on November 10, 1980, Southwest Gas Corporation ("Southwest") tendered for filing First Revised Sheet No. 20 applicable to its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to revise its General Terms and Conditions, Section 1, "Measurements," Subsection 1.1, "Unit of Measurement and Basis of Measurement," to reflect the basis for Southwest's measurement of natural gas, Gas Measurement Committee Report No. 3/ANSI/API 2530 of the American Gas Association.

Southwest has requested that the Commission authorize the tendered tariff sheet to become effective upon fulfillment of the 30-day notice requirement.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

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 26, 1980. 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. 80-38546 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-16-002]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

December 8, 1980.

Take notice that on November 20, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78-16-002 a petition to amend the order issued August 22, 1978, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional delivery point to Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 22, 1978, it was authorized to transport for Northern on a daily basis up to 15,000 Mcf of natural gas from Vermilion Block 60, offshore Louisiana, and up to 5,000 Mcf of natural gas from South Marsh Island Block 243, offshore Louisiana. Such volumes, it is stated, are delivered at a point near Kinder, Louisiana, for the account of Northern and then retained by Petitioner as

exchange volumes redelivered by Northern pursuant to another exchange arrangement.

Petitioner proposes herein to provide an additional delivery point from Northern from South Marsh Island 244, offshore Louisiana, pursuant to an amendment dated September 19, 1980. Petitioner submits that the new receipt point would facilitate delivery of gas from a new source of supply acquired by Northern. It is stated that the present maximum daily transportation volumes to be transported would not be increased.

Petitioner proposes to charge Northern a volume charge equal to the product of 5.09 cents multiplied by the total volume in Mcf of gas delivered during the month. It is further asserted that the minimum monthly bill would consist of the monthly volume charge of 5.09 cents multiplied by the number of days in said month multiplied by 66⅔ percent of the specified maximum daily transportation quantity.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 30, 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. 80-38547 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-308-001]

Texas Eastern Transmission Corp.; Petition To Amend

December 8, 1980.

Take notice that on November 21, 1980, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP80-308-001 a petition to amend the order issued August 8, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Applicant to assume a 30.7 percent interest in pipeline facilities belonging to Columbia Gulf Transmission Company (Columbia Gulf) and to transport natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 8, 1980, Petitioner, Columbia Gulf, and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) were authorized to construct and operate 9.3 miles of 16-inch pipeline extending from the producer's platform in Eugene Island Area, Block 384 (EI 384) to an underwater tap on an existing 30-inch pipeline owned by Petitioner and others in Eugene Island Block 342. Metering facilities and other appurtenances, it is stated, were also authorized to be constructed.

Petitioner proposes herein to assume the ownership interest of Columbia Gulf in the 16-inch pipeline and related facilities pursuant to a letter agreement between Petitioner and Columbia Gulf dated May 29, 1980. Assumption of Columbia Gulf's 30.7 percent ownership represents an estimated investment by Petitioner of $2,307,105, it is stated.

Petitioner further proposes to transport gas for Columbia which gas Columbia would purchase from Union Texas Petroleum, a Division of Allied Chemical Corporation in EI 384 and 385. Pursuant to a gas transportation agreement between Petitioner and Columbia dated November 11, 1980, Applicant would transport up to 18,400 Mcf of natural gas per day for Columbia from the EI 384 platform through the 16-inch pipeline to an interconnection with the existing 30-inch pipeline in Eugene Island Block 342, it is stated. Upon Petioner's consent, Columbia may deliver additional quantities of gas for transportation, it is stated.

Columbia would pay Petitioner a monthly charge of $55,407 based on the transportation quantity of 18,400 Mcf per day, it is asserted. An additional charge would be made for quantities transported in any month which are in excess of the transportation quantity, 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 December 30, 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. 80-38545 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RM79-34; ST81-17, et seq.]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Mid-Louisiana Gas Company, et al.; Self-Implementing Transactions

December 8, 1980.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,
Secretary.

Docket No. and transporter/seller		Date filed	Part 284, subpart	Expiration date[1]	Transportation rate (cents per 1,000 ft³)
ST81-17	Mid-Louisiana Gas Co	10/16/80	G		
ST81-18	Texas Eastern Transmission Corp	10/21/80	B		
ST81-19	Transwestern Pipeline Co	10/21/80	B		
ST81-20	Tennessee Gas Pipeline Co	10/23/80	F		
ST81-21	Tennessee Gas Pipeline Co	10/23/80	G		
ST81-22	Natural Gas Pipeline Co. of America	10/22/80	G		
ST81-23	Panhandle Eastern Pipe Line Co	10/24/80	G		
ST81-24	Northwest Pipeline Corp	10/24/80	G		
ST81-25	Trunkline Gas Co	10/27/80	G		
ST81-27	Tejas Gas Corp	10/27/80	C	3/26/81	27
ST81-29	Southern Natural Gas Co	10/29/80	B		
ST81-30	Natural Gas Pipeline Co. of America	10/29/80	G		
ST81-31	Louisiana Intrastate Gas Corp	10/30/80	C	3/29/81	20
ST81-32	Louisiana Intrastate Gas Corp	10/30/80	C	3/29/81	20
ST81-33	Northern Natural Gas Co	10/30/80	G		
ST81-34	El Paso Natural Gas Co	10/31/80	B		
ST81-35	Mountain Fuel Supply Co	10/31/80	G		
ST81-36	Mountain Fuel Supply Co	10/31/80	G		
ST81-37	Mountain Fuel Supply Co	10/31/80	G		
ST81-38	Tennessee Gas Pipeline Co	10/31/80	G		
ST81-39	Transcontinental Gas Pipe Line Corp	10/27/80	G		
ST81-40	Cities Service Gas Co	11/3/80	G		
ST81-41	Colorado Interstate Gas Co	11/3/80	G		
ST81-42	Transcontinental Gas Pipe Line Corp	11/4/80	G		
ST81-43	Rocky Mountain Natural Gas Co	10/31/80	C		
ST81-44	Louisiana-Nevada Transit Co	11/3/80	B		
ST81-45	Houston Pipe Line Co.	11/3/80	C		
ST81-46	Oasis Pipe Line Co	11/3/80	C		
ST81-47	Midwestern Gas Transmission Co	11/5/80	G		
ST81-48	Texas Eastern Transmission Corp	11/5/80	G		
ST81-49	Trunkline Gas Co	11/5/80	B		
ST81-50	Trunkline Gas Co	11/5/80	G		
ST81-51	Southern Natural Gas Co	11/5/80	B		
ST81-52	Consumers Power Co	11/6/80	F		
ST81-53	Tennessee Gas Pipeline Co	11/6/80	B		
ST81-54	Tennessee Gas Pipeline Co	11/6/80	B		
ST81-55	Tennessee Gas Pipeline Co	11/6/80	B		
ST81-56	Tennessee Gas Pipeline Co	11/6/80	B		
ST81-57	Tennessee Gas Pipeline Co	11/6/80	B		
ST81-58	Tennessee Gas Pipeline Co	11/5/80	G		
ST81-59	Texas Gas Transmission Corp	11/6/80	G		
ST81-60	Natural Gas Pipeline Co. of America	11/7/80	G		
ST81-61	Big Sandy Gas Corp	11/7/80	C	4/6/81	0
ST81-62	Houston Pipe Line Co	11/7/80	C		
ST81-63	Houston Pipe Line Co	11/7/80	C		
ST81-64	Oasis Pipe Line Co	11/7/80	C		
ST81-65	Northern Natural Gas Co	9/29/80	B		
ST81-66	Northern Natural Gas Co	11/10/80	G		
ST81-67	Louisiana Intrastate Gas Co	11/12/80	C	4/11/81	20
ST81-68	Southern Natural Gas Co	11/12/80	G		
ST81-69	Mountain Fuel Supply Co	11/12/80	G		
ST81-70	Louisiana Resources Co	11/12/80	C	4/11/81	0
ST81-71	Delhi Gas Pipeline Corp	11/13/80	C		
ST81-72	Southern Natural Gas Co	11/13/80	G		
ST81-73	Panhandle Eastern Pipe Line Co	11/17/80	G		
ST81-74	El Paso Natural Gas Co	11/17/80	G		
ST81-75	Tennessee Gas Pipeline Co	11/14/80	G		
ST81-76	Texas Gas Transmission Co	11/18/80	F		
ST81-77	Valero Transmission Co	10/3/80	C		
ST81-78	Colorado Interstate Gas Co	11/6/80	G		

[1] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 80-38559 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 329]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued December 5, 1980.

```
JD NO     JA DKT        API NO       SEC D WELL NAME                          FIELD NAME                PROD     PURCHASER
***********************************************************************************************
  ALABAMA OIL & GAS BOARD
***********************************************************************************************
=PRUET PRODUCTION CO                   RECEIVED:  11/21/80  JA: AL
 8106192   11-7-808PD   0107520282 102   BOYETT #23-8 NO 1                   MILLPORT                  427.0
 8106188   11-7-804-PD  0107520216 102   BOYETT #24-6 NO 1                   MILLPORT                  475.0
 8106189   11-7-805PD   0107520206 102   ROBINSON #12-12 NO 1                MILLPORT                  832.0
 8106190   11-7-806PD   0107520240 102   ROBINSON #13-10 NO 1                MILLPORT                  511.0
 8106191   11-7-807PD   0107520196 102   ROBINSON #13-4 NO 1                 MILLPORT                  322.0
=SOUTHLAND ROYALTY CO                  RECEIVED:  11/21/80  JA: AL
 8106185   11-7-801PD-A 0107520284 102   ELLEN RODGERS 30-6 #1               MCGEE LAKE                150.0 TENNESSEE GAS PIPELI
 8106182   10-5-802PD   0107520266 102   H L PATRICK 32-10 #1                MCGEE LAKE                 85.0 TENNESSEE GAS PIPELI
 8106186   11-7-802PD-A 0107520197 102   L J HAYS 2-8 #1                     STAR                      125.0 TENNESSEE GAS PIPELI
 8106184   10-5-806 PD  0107520264 102   SARAH C SPROUSE 30-10 #1            MCGEE LAKE                 80.0 TENNESSEE GAS PIPELI
 8106187   11-7-803PD-A 0107520214 102   W H SEAY 31-1 #1                    MCGEE LAKE                120.0 TENNESSEE GAS PIPELI
 8106183   10-5-804PD-A 0107520235 102   WILLARD MCGEE 32-4 #1               MCGEE LAKE                 90.0 TENNESSEE GAS PIPELI
***********************************************************************************************
  CALIFORNIA DEPARTMENT OF CONSERVATION
***********************************************************************************************
=MCCULLOCH OIL & GAS CORP              RECEIVED:  03/12/79  JA: CA
 7928340   78-6-0004    0409520378 103   HASTINGS NO 1-22                    LINDSEY SLOUGH PROSPECT  2920.0
 7928341   78-6-0005    0409520348 103   LAMBIE #1-4                         DENVERTON CREEK           456.0 PACIFIC GAS & ELECTR
=NAHAMA & WESANT INC                   RECEIVED:  03/12/79  JA: CA
 7928339   78-6-0001    0411300000 102   CHEVRON CACHE BASIN NO 1            CACHE BASIN               100.0
***********************************************************************************************
  MICHIGAN DEPARTMENT OF NATURAL RESOURCES
***********************************************************************************************
=AMOCO PRODUCTION CO                   RECEIVED:  11/21/80  JA: MI
 8106194              2114131528 102   STATE BISMARCK-FUHRMAN UT B #1-12   BISMARCK 12-34N-4E        300.0 MICHIGAN CONSOLIDATE
 8106195              2107931318 102   STATE BLUE LAKE H 1-32              BLUE LAKE 32-28N-5W       630.0 CONSUMERS POWER CO
=DON YOHE ENTERPRISES INC              RECEIVED:  11/21/80  JA: MI
*8106193              2110133191 103   FREES ET AL 1-1                     WEXFORD 6                  54.8 MICHIGAN CONSOLIDATE
***********************************************************************************************
  OKLAHOMA CORPORATION COMMISSION
***********************************************************************************************
=AL HOCORD INC                         RECEIVED:  11/24/80  JA: OK
 8106159   06157        3509321737 103   B KOEHN #1-20                       MENO-RINGWOOD               7.0 PIONEER GAS PRODUCTS
 8106168   06166        3509321701 103   K DECKER #1-29                      MENO-RINGWOOD               7.2 PIONEER GAS PRODUCTS
=AMERADA HESS CORPORATION              RECEIVED:  11/24/80  JA: OK
 8106169   06161        3501500646 108   R E GISH #1                         CEMENT W                   13.7 NATURAL GAS PIPELINE
=AMERICAN QUASAR PETROLEUM CO          RECEIVED:  11/24/80  JA: OK
 8106156   06084        3512920428 103   MARTIN WELL #1-34                   SEC 34 T18N R21W           50.0 PRODUCERS GAS CO
=ANDOVER OIL COMPANY                   RECEIVED:  11/24/80  JA: OK
 8106123   06481        3501721442 102   JENSEN #3-2                                               185.0 DELHI GAS PIPELINE C
```

VOLUME 329 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME		FIELD NAME	PROD	PURCHASER
8106122	06561	3501721443	102		JENSEN #34-5			185.0	DELHI GAS PIPELINE C
8106163	06362	3501721437	103		JENSEN #35-4			185.0	DELHI GAS PIPELINE C
8106164	06361	3501721434	103		JENSEN #35-6			185.0	DELHI GAS PIPELINE C
-ARKANSAS WESTERN PRODUCTION CO					RECEIVED: 11/24/80	JA: OK			
8106126	05531	3515320986	102		SMART #1-23		NE SKILING	170.0	PANHANDLE EASTERN PI
-DAVIS OIL COMPANY					RECEIVED: 11/24/80	JA: OK			
8106171	06158	3503920331	103		DECK NO 1		SOUTH THOMAS	650.0	WESTERN FARMERS ELEC
8106108	06197	3503920319	103		DON MCNEILL NO 1		SOUTH THOMAS	450.0	WESTERN FARMERS ELEC
8106170	06160	3501723170	103		LEPAK NO 1		NORTH FORK	450.0	DELHI GAS PIPELINE C
-EL PASO NATURAL GAS COMPANY					RECEIVED: 11/24/80	JA: OK			
8106160	06156	3500900094	108		OREN #1		ERICK SOUTH BROWN DOLOMI	20.4	EL PASO NATUNAL GAS
-ENTEX INC					RECEIVED: 11/24/80	JA: OK			
8106155	06106	3508321327	103		MARTIN A NO 2		WEST LAWRIE	37.0	EASON OIL CO
-GEORGE RODMAN INC					RECEIVED: 11/24/80	JA: OK			
8106140	06175	3508320608	108		BLACKBURN 23-1		N HULL	1.8	EASON OIL CO
-HOOVER & BRACKEN ENERGIES					RECEIVED: 11/24/80	JA: OK			
8106137	05685	3504320987	102		CLARK #1-4		WILDCAT	146.0	PHILLIPS PETROLEUM C
-INEXCO OIL COMPANY					RECEIVED: 11/24/80	JA: OK			
8106165	06225	3512920429	102		WICKHAM 1-24		HAMMON	1460.0	DELHI GAS PIPELINE C
-J. M HUBER CORPORATION					RECEIVED: 11/24/80	JA: OK			
8106150	06154	3501520801	103		SCHOLDER NO 1		SOUTHEAST ONEY	1095.0	DELHI GAS PIPELINE C
-JET OIL COMPANY					RECEIVED: 11/24/80	JA: OK			
8106152	06151	3508321248	103		#1 EAVENSON		N E MULHALL	26.0	EASON OIL CO
8106151	06158	3508321214	103		STATE L #7		LANGSTON	2.0	SERVICE DRILLING CO
8106153	06149	3504721967	103		STEINERT #1		N ELKHORN	72.0	AMINOIL USA INC
-KAISER-FRANCIS OIL COMPANY					RECEIVED: 11/24/80	JA: OK			
8106157	06073	3504500000	108		JEROME BERRYMAN E		SOUTH PEEK	15.0	PANHANDLE EASTERN PI
-L & T OIL & GAS INC					RECEIVED: 11/24/80	JA: OK			
8106131	05182	3507322207	103		BOECKMAN 28 NO 1		SOONER TREND	182.5	PHILLIPS PETRO
8106134	05175	3507322361	103		JOHN KEY 4-2		SOONER TREND	547.5	CONTINENTAL OIL CO
8106132	05177	3507322345	103		HOFFAT 19 NO 1		SOONER TREND	365.5	CONTINENTAL OIL CO
8106127	05187	3507322206	103		MOORE 2 NO 1		SOONER TREND	547.5	PHILLIPS PETRO CO
8106133	05176	3507322289	103		SPAHN 18 NO 2		SOONER TREND	550.0	CONTINENTAL OIL CO
8106130	05183	3507322212	103		STRACK 19 NO 1		SOONER TREND	40.0	PHILLIPS PETRO
8106128	05185	3507322218	103		WEHRENBERG 2 NO 1		SOONER TREND	54.8	PHILLIPS PETRO CO
8106129	05184	3507322103	103		WILSON 20 NO 1		SOONER TREND	36.5	PHILLIPS PETROLEUM
-L G WILLIAMS OIL COMPANY INC					RECEIVED: 11/24/80	JA: OK			
8106121	05118	3501721272	103		LINN-CO #21-1		YUKON	61.2	PHILLIPS PETROLEUM C
-L O WARD					RECEIVED: 11/24/80	JA: OK			
8106125	06179	3502720323	103		HUCKABEE-BOGGS #2		SOUTHWEST MOORE	18.0	SUN GAS CO
8106112	06181	3504320992	103		MCNEIL #1		SOUTHEAST OAKWOOD	365.0	
8106113	06180	3502720342	103		ROBERTS #1		SOUTHWEST MOORE	185.0	SUN GAS CO
-L A FRENCH JR					RECEIVED: 11/24/80	JA: OK			
8106161	06155	3500320731	103		RUTH NO 2			273.4	PIONEER GAS PRODUCTS
-LENTS EXPLORATION INC					RECEIVED: 11/24/80	JA: OK			
*8106145	05678	3507121616	103		CURL #1			16.5	CITIES SERVICE GAS C
*8106144	05679	3507100000	103		CURL #1-A			6.3	CITIES SERVICE GAS C
-MACKELLAR INC					RECEIVED: 11/24/80	JA: OK			
8106146	05332	3507300000	103		BADGER #1		SOONER TREND	36.0	CONOCO INC
-MAY PETROLEUM INC					RECEIVED: 11/24/80	JA: OK			
8106136	06169	3505120897	102		ROSS #1 (051-60082)		WATONGA-CHICKASHA TREND	365.0	ARKANSAS LOUISIANA G
8106162	06393	3504520807	103		SUTHERS #1		S W ARNETT AREA	365.0	PRODUCERS GAS CO

VOLUME 329 PAGE 003

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
-MUSTANG PRODUCTION CO.				RECEIVED: 11/24/80 JA: OK			
8106166		3501120824	103	LOWRY #1-30	S E FAY	100.0	OKLAHOMA GAS & ELECT
8106141	06173	3501120885	103	MOON #1-32	S E FAY	200.0	OKLAHOMA GAS & ELECT
8106167	06171	3503920172	103	TEETERS #1-12	S FAY	60.0	OKLAHOMA GAS & ELECT
-NORTHERN NATURAL GAS CO				RECEIVED: 11/24/80 JA: OK			
8106143	05717	3505920836	102	CHAMP NO 1-30	LOVEDALE	350.0	NORTHERN NATURAL GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 11/21/80 JA: OK			
8106181	00327	3513900000	108	BOBARR NO 2	SOUTH GUYMON - MORROW	1.0	PANHANDLE EASTERN PI
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 11/24/80 JA: OK			
8106158	06018	3501721299	102	BOHHOFF C #1		0.0	PANHANDLE EASTERN PI
8106147	06013	3501721311	102	BOHHOFF D #1	N CONCHO	0.0	PANHANDLE EASTERN PI
8106104	06206	3501721395	102	HEUPEL A #1	N CONCHO	0.0	PANHANDLE EASTERN PI
8106105	06205	3501721396	102	HEUPEL B #1	N CONCHO	0.0	PANHANDLE EASTERN PI
8106107	06203	3513900000	108	HITCH B NO 2	GUYMON HUGOTON	26.0	PANHANDLE EASTERN PI
8106106	06204	3501721397	102	LAUB A #1	N CONCHO	0.0	PANHANDLE EASTERN PI
8106148	06011	3501721393	102	MEYER C #1	N CONCHO	0.0	PANHANDLE EASTERN
8106103	06207	3501721394	102	ROTHER A #1	N CONCHO	0.0	PANHANDLE EASTERN PI
8106118	06210	3501721371	102	WIENEL C #1	N CONCHO	0.0	PANHANDLE EASTERN P/
8106149	06010	3501721390	103	WILLIAMS PJ #1	N CONCHO	0.0	PANHANDLE EASTERN
-PHOENIX RESOURCES COMPANY				RECEIVED: 11/24/80 JA: OK			
8106135	05143	3505900000	108	HIERONYMOUS #1	LAVERNE	10.0	MICHIGAN WISCONSIN P
8106119	05137	3507300000	108	NELSON #1	HENNESSEY W.	2.5	CONTINENTAL OIL CO
8106120	05136	3507335961	108	WALTA FELDER #1	HENNESSEY EAST	16.0	EXXON CO USA
-PIONEER PRODUCTION CORPORATION				RECEIVED: 11/24/80 JA: OK			
8106116	06406	3515121045	102	KAY CARTER #1-21	N E FAHRY	0.0	PANHANDLE EASTERN PI
-RAREY OIL CORP				RECEIVED: 11/24/80 JA: OK			
8106117		3503700000	108	PRESTON #4 03721071	GLENNPOOL	5.0	PHILLIPS PETROLEUM C
-RECKS EXPLORATION CO				RECEIVED: 11/24/80 JA: OK			
8106180	06424	3513921272	102	CHRISTOPHER 26A		650.0	PANHANDLE EASTERN PI
8106139	06176	3500320629	103	HANKINS 26A	SOUTH CHEROKEE	20.0	AMINOIL USA
8106138	06178	3505120850	103	LANGSTON #1	S E CHICKASHA	150.0	NATURAL GAS PIPELINE
-RODMAN PETROLEUM CORP				RECEIVED: 11/24/80 JA: OK			
8106142	05845	3501720945	103	SHORNEY 4 #1	WEST LOCKRIDGE	35.0	PHILLIPS PETROLEUM C
-SAREDAN OIL CORPORATION				RECEIVED: 11/24/80 JA: OK			
8106172	06452	3505120831	102	CHILES NO 1	WEST MINCO	235.0	TRANSOK PIPE LINE CO
8106179	06440	3501721253	102	STEJSKAL NO 1		75.0	DELHI GAS PIPELINE C
-SENECA OIL COMPANY				RECEIVED: 11/24/80 JA: OK			
8106176	06446	3509321582	102	BALDWIN NO 1-21	S E BADO	252.0	PANHANDLE EASTERN PI
8106178	06441	3509321537	102	BOSTON NO 1-22	DANE	267.0	PANHANDLE EASTERN PI
8106177	06444	3509321310	102	COMBS UNIT NO 1	NORTH DANE	225.0	PANHANDLE EASTERN PI
8106175	06447	3509321665	102	GRAY NO 1-36	SOUTHWEST DANE	10.7	PANHANDLE EASTERN PI
8106124	06453	3513921229	102	JOLLIFFE MINERALS TRUST NO 1-24	SW DOMBEY	360.0	PANHANDLE EASTERN PI
8106173	06450	3500721773	103	JOLLIFFE MINERALS TRUST NO 2-19	S W DOMBEY	360.0	PANHANDLE EASTERN PI
8106115	06442	3509321496	102	NIGHTENGALE NO 1	DANE	335.0	PANHANDLE EASTERN PI
8106174	06448	3509321518	102	RITTER NO 1-25	DANE	276.0	PANHANDLE EASTERN PI
8106114	06449	3509321377	102	SPEECE NO 1	DANE	182.0	PANHANDLE EASTERN PI
-W P LERBLANCE JR				RECEIVED: 11/24/80 JA: OK			
8106154	06108	3512120605	103	W R LEE #1	FEATHERSTON	180.0	SOUTHEAST TRANSMISSI
-ZIA PIPELINE INC				RECEIVED: 11/24/80 JA: OK			
8106109	06185	3507500000	108	HANZA #1		15.0	ARKLA
8106110	06194	3507500000	108	OSMOND A #1		1.2	ARKLA
8106111	06183	3507500000	108	REED #1		20.0	ARKLA

VOLUME 329 PAGE 004

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
UTAH DIVISION OF OIL,GAS, & MINING						
AMERICAN QUASAR PETROLEUM CO			RECEIVED: 05/22/79 JA: UT			
7982342	K 107-3	4304330030 103	BINGHAM 10-2	SEC 10 T2N-R7E	100.0	MOUNTAIN FUEL SUPPLY
7982338	K 107-4	4304330068 103	UPRR 19-2	660 FNL 1980 FWL (SW NW)	100.0	MOUNTAIN FUEL CO

OTHER PURCHASERS VOLUME NO 1329

8106144 CHASE GATHERING SYSTEMS INC
8106145 CHASE GATHERING SYSTEMS INC
8106193 CONSUMERS POWER CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 29, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38540 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 330]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued December 5, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
*ACE DRILLING SERVICES INC					RECEIVED: 11/21/80 JA: LA			
8106352	AO-3850	1711122698	103		GIBSON ESTATE #10	MONROE GAS	40.0	WEST MONROE GAS GATH
8106399	AO-3851	1711122699	103		GIBSON ESTATE #11	MONROE	40.0	WEST MONROE GAS GATH
8106260	AO-3884	1711121339	103		HOPKINS ESTATE #3	MONROE	40.0	WEST MONROE GAS GATH
8106308	AO-3883	1711122700	103		PEARSON EST #1	MONROE	40.0	WEST MONROE GAS GATH
*BILLY E DAVLES					RECEIVED: 11/21/80 JA: LA			
8106226	AO-3894	1708320016	108		HATCH #1 116803	RICHLAND	2.5	MID LOUISIANA GAS CO
8106398	AO-3896	1708320053	108		HATCH #1-2 119443	RICHLAND	6.0	MID LOUISIANA GAS CO
8106276	AO-3895	1708320047	108		HATCH #1-34 118776	RICHLAND	7.5	MID LOUISIANA GAS CO
8106227	AO-3893	1708320292	108		HATCH ESTATE #1 141917	RICHLAND	21.9	MID LOUISIANA GAS CO
8106241	AO-3819	1707321202	108		PERRY ET AL #1 164252	MONROE	1.7	MID LOUISIANA GAS CO
*CERA GAS CORP					RECEIVED: 11/21/80 JA: LA			
8106353	AO-3849	1711121779	108		HBC NO 2	ARKADELPHIA & MONROE GAS	5.6	INTERNATIONAL MINERA
*CERTURA INCORPORATED					RECEIVED: 11/21/80 JA: LA			
8106343	AO-3796	1709900000	103		E K MILLER #1	ARNAUDVILLE	300.0	FLORIDA GAS TRANSMIS
*CITIES SERVICE COMPANY					RECEIVED: 11/21/80 JA: LA			
8106271	AO-3940	1702720556	102		PET RA SU FF-ROGERS HARMON A1	PANTHER CREEK PETTET	2.0	
8106267	AO-3944	1702720522	102		PET RA SUGG THATCHER E #1	PANTHER CREEK PETTET	27.0	
8106270	AO-3941	1702720577	102		PET RA SUHR KINSEY A #1	PANTHER CREEK PETTET	13.0	
8106266	AO-3945	1702720529	102		PET RA SUII THATCHER D #1	PANTHER CREEK PETTET	51.0	
8106269	AO-3942	1702720538	102		PET RA SUL GLEASON A #1	PANTHER CREEK PETTET	10.0	
8106268	AO-3943	1702720525	102		PET RA SUMM KING B #1	PANTHER CREEK PETTET	8.0	
8106272	AO-3939	1702720519	102		PET RA SUS THATCHER F #1	PANTHER CREEK PETTET	15.0	
8106317	AO-3949	1702720497	102		PET RA SUU THATCHER B #1	PANTHER CREEK PETTET	40.0	
8106265	AO-3946	1702720511	102		PET RA SUH THATCHER C #1	PANTHER CREEK PETTET	18.0	
8106319	AO-3947	1702720512	102		PET RA SUX LEWIS A #1	PANTHER CREEK PETTET	28.0	
8106318	AO-3948	1702720513	102		PET RA SUY LEWIS B #1	PANTHER CREEK PETTET	20.0	
8106316	AO-3950	1702720528	102		PET RA SUZ LEWIS C #1	PANTHER CREEK PETTET	11.0	
*CRYSTAL OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106358	AO-3965	1701320442	103		KENDRICK A #1	WEST ARCADIA	138.3	TEXAS GAS TRANSMISSI
*DAMSON OIL CORPORATION					RECEIVED: 11/21/80 JA: LA			
8106404	AO-3906	1705721578	102		PELTO #1	NORTH THIBODAUX	730.0	LOUISIANA INTRASTATE
*DAVIS OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106355	AO-3973	1701920873	102		EARL E COBLE #1 SENIAL #165753	NORTH HAYES	550.0	TEXAS GAS TRANSMISSI
*ELOIE CO INC					RECEIVED: 11/21/80 JA: LA			
8106333	AO-3908	1701723321	103		HATCH NO 1	GREENWOOD - WASKOM	30.0	ARKLA GAS CO
*ERDON INC					RECEIVED: 11/21/80 JA: LA			
8106397	AO-3858	1711122141	108		BOBBY ANDREWS NO 1	MONROE (6824)	16.7	TEXAS GAS TRANSMISSI
8106402	AO-3975	1711122216	103		C W WHEELER NO 1	MONROE (6824)	7.8	TEXAS GAS TRANSMISSI
8106401	AO-3976	1711122291	103		COY SMITH NO 1	MONROE (6824)	8.7	TEXAS GAS TRANSMISSI

VOLUME 330 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106291	80-3864	1711121470	108		EXXON A NO 4	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106258	80-3870	1711121471	108		EXXON B NO 1	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106259	80-3869	1711121472	108		EXXON B NO 2	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106261	80-3868	1711121473	108		EXXON B NO 3	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106262	80-3867	1711121474	108		EXXON B NO 4	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106263	80-3866	1711121841	108		EXXON C NO 1	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106254	80-3874	1711121883	108		EXXON C NO 2	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106255	80-3873	1711121939	108		EXXON C NO 3	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106256	80-3872	1711121975	108		EXXON C NO 4	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106292	80-3863	1711121842	108		EXXON D NO 1	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106293	80-3862	1711121884	108		EXXON D NO 2	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106277	80-3856	1711121973	108		EXXON D NO 3	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106278	80-3855	1711121977	108		EXXON D NO 4	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106279	80-3854	1711121976	108		EXXON E NO 4	MONROE (6824)	11.1	TEXAS GAS TRANSMISSI
8106294	80-3861	1711121873	108		H D GREEN NO 11	MONROE (6824)	2.8	TEXAS GAS TRANSMISSI
8106257	80-3871	1711121814	108		H D GREEN NO 6	MONROE (6824)	5.1	TEXAS GAS TRANSMISSI
8106295	80-3860	1711121931	108		HARDING COLLEGE NO 1	MONROE (6824)	13.5	TEXAS GAS TRANSMISSI
8106400	80-3977	1711122142	103		JOHN GREENE NO 3	MONROE (6824)	4.7	TEXAS GAS TRANSMISSI
8106264	80-3865	1711122185	108		P N EDWARDS NO 2	MONROE (6824)	6.0	TEXAS GAS TRANSMISSI
8106403	80-3974	1711122290	103		TIM GREEN NO 3	MONROE (6824)	12.4	TEXAS GAS TRANSMISSI
8106280	80-3853	1711121477	108		VUA EULA LANKFORD ET AL NO 1	MONROE (6824)	17.8	TEXAS GAS TRANSMISSI
8106296	80-3859	1711121994	108		VUA JOE E BROWN JR ET AL NO 1	MONROE (6824)	10.6	TEXAS GAS TRANSMISSI
8106298	80-3857	1711122175	108		WILKS SAVAGE NO 2	MONROE (6824)	2.6	TEXAS GAS TRANSMISSI
-FRANKS PETROLEUM INC ETAL					RECEIVED: 11/21/80 JA: LA			
8106359	80-3964	1711122298	103		C V DAVIS RA SUJ F M WADE JR B-1	UNIONVILLE	91.0	MANVILLE FOREST PROD
8106392	80-3843	1707321365	102		HOSS RA SUH IVY T NORRIS NO 1	MILHAVEN FIELD	330.0	TEXAS GAS TRANSMISSI
-GLENDA PETROLEUM CORP					RECEIVED: 11/21/80 JA: LA			
8106309	80-3882	1707321069	108		E L EWBANK NO 1 S/N 158233	MONROE	12.0	PETRO-LEWIS CORP
8106312	80-3879	1707321070	108		E L EWBANK NO 2 S/N 158234	MONROE	13.0	PETRO-LEWIS CORP
8106320	80-3926	1711120737	108		EXXON ARCO 11-A #1 S/N 150396	MONROE	14.0	MID LOUISIANA GAS CO
8106321	80-3925	1711120739	108		EXXON ARCO 11-A #3 S/N 150398	MONROE	14.0	MID LOUISIANA GAS CO
8106328	80-3913	1711120747	108		EXXON ARCO 11-A #4 S/N 150468	MONROE	14.0	MID LOUISIANA GAS CO
8106230	80-3927	1711120738	108		EXXON ARCO 11-A NO 2 S/N 150397	MONROE	14.0	MID LOUISIANA GAS CO
8106374	80-3935	1711120899	108		EXXON ARCO 6 NO 10 S/N 151769	MONROE	11.0	MID LOUISIANA GAS CO
8106233	80-3916	1711121145	108		EXXON ARCO 6 NO 11 S/N 154588	MONROE	10.0	MID LOUISIANA GAS CO
8106275	80-3936	1711120898	108		EXXON ARCO 6 NO 9 S/N 151768	MONROE	10.0	MID LOUISIANA GAS CO
8106322	80-3924	1711120762	108		EXXON-ARCO 11-A #5 S/N 150665	MONROE	14.0	MID LOUISIANA GAS CO
8106273	80-3938	1711120829	108		EXXON-ARCO 11-A #6 S/N 151269	MONROE	12.0	MID LOUISIANA GAS CO
8106274	80-3937	1711120880	108		EXXON-ARCO 6 #1 S/N 151683	MONROE	11.0	MID LOUISIANA GAS CO
8106378	80-3931	1711120885	108		EXXON-ARCO 6 #6 S/N 151693	MONROE	11.0	MID LOUISIANA GAS CO
8106326	80-3920	1711120882	108		EXXON-ARCO 6 NO 3 S/N 151685	MONROE	12.0	MID LOUISIANA GAS CO
8106377	80-3932	1711120883	108		EXXON-ARCO 6 NO 4 S/N 151686	MONROE	11.0	MID LOUISIANA GAS CO
8106232	80-3917	1711120884	108		EXXON-ARCO 6 NO 5 S/N 151692	MONROE	10.0	MID LOUISIANA GAS CO
8106231	80-3918	1711120886	108		EXXON-ARCO 6 NO 7 S/N 151694	MONROE	11.0	MID LOUISIANA GAS CO
8106375	80-3934	1711120887	108		EXXON-ARCO 6 NO 8 S/N 151695	MONROE	11.0	MID LOUISIANA GAS CO
8106368	80-3919	1711120881	108		EXXON-ARCO 6#2 S/N 151684	MONROE	10.0	MID LOUISIANA GAS CO
8106234	80-3915	1711121768	108		HODGE B NO 1 S/N 162490	MONROE	18.0	MID LOUISIANA GAS CO
8106327	80-3914	1711121789	108		HODGE B NO 2 S/N 162491	MONROE	18.0	MID LOUISIANA GAS CO
8106323	80-3923	1711120744	108		HOWARD HEIRS NO 1 S/N 150447	MONROE	11.0	MID LOUISIANA GAS CO
8106376	80-3933	1711120745	108		HOWARD HEIRS NO 2 S/N 150448	MONROE	12.0	MID LOUISIANA GAS CO
8106324	80-3922	1711120746	108		HOWARD HEIRS NO 3 S/N 150449	MONROE	11.0	MID LOUISIANA GAS CO
8106228	80-3929	1711120617	108		L & R FOWLER #1 S/N 148299	MONROE	19.0	MID LOUISIANA GAS CO
8106229	80-3928	1711120618	108		L & R FOWLER NO 2 S/N 148300	MONROE	19.0	MID LOUISIANA GAS CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106379	80-3930	1711120445	108		MAGGIE SMITH A #3 S/N 145424	MONROE	16,0	MID LOUISIANA GAS CO
8106325	80-3921	1711120446	108		MAGGIE SMITH A#4 S/N 145425	MONROE	14,0	MID LOUISIANA GAS CO
8106313	80-3878	1707321092	108		R L VENABLE #3 S/N 160131	MONROE	13,0	PETRO-LEWIS CORP
8106310	80-3881	1707321071	108		R L VENABLE NO 1 S/N 158235	MONROE	13,0	PETRO-LEWIS CORP
8106311	80-3880	1707320236	108		R L VENABLE NO 2 S/N 158236	MONROE	11,0	PETRO LEWIS CORP
-GREAT SOUTHERN OIL & GAS CO INC					RECEIVED: 11/21/80 JA: LA			
8106405	80-3905	1702321462	102		SOPHIE HARMS SCHUH #1	JOHNSON BAYOU 4771	150,0	LOUISIANA RESOURCES
-GULF OIL CORPORATION					RECEIVED: 11/21/80 JA: LA			
8106391	80-3844	1707522657	103		BLD E NO 153	WEST BAY	71,2	TEXAS EASTERN TRANSM
8106240	80-3820	1707522552	103		BLD E WELL NO 152	WEST BAY	2,6	TEXAS EASTERN TRANSM
8106339	80-3790	1709720539	103		KZS SU KU NO 51 SERIAL #162481	KROTZ SPRINGS	150,0	MICHIGAN-WISCONSIN P
-HOGAN DRILLING COMPANY INC					RECEIVED: 11/21/80 JA: LA			
8106336	80-3793	1702120674	103		OLINKRAFT 713 NO 1	LOST CREEK	50,0	LOUISIANA INTRASTATE
-IMC EXPLORATION COMPANY					RECEIVED: 11/21/80 JA: LA			
8106223	80-3831	1711122137	108		LOVE #13	MONROE	18,0	IMC PIPELINE CO
-INEXCO OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106335	80-3794	1703920211	103		CROWELL LAND & MINERALS NO 7-D	PINE PRAIRIE	292,0	LOUISIANA INTRASTATE
-JOHN O CLAY EXPLORATION INC					RECEIVED: 11/21/80 JA: LA			
8106253	80-3875	1702120467	102		INTERNATIONAL PAPER CO #1	SWIM LAKE	90,0	LOUISIANA INTRASTATE
-LANKFORD & NANCE					RECEIVED: 11/21/80 JA: LA			
8106396	80-3898	1711122577	103		K D LANKFORD NO 1	MONROE	28,0	TEXAS GAS TRANSMISSI
8106394	80-3900	1711122579	103		K D LANKFORD NO 3	MONROE	28,0	TEXAS GAS TRANSMISSI
8106395	80-3899	1711122580	103		K D LANKFORD NO 4	MONROE	16,0	TEXAS GAS TRANSMISSI
-LIGHTNING PRODUCTIONS INC					RECEIVED: 11/21/80 JA: LA			
8106242	80-3818	1703120606	108		PALUXY RB SUA CHARLES BROWN NO 1	CANADIAN BAYOU	14,0	TEXAS EASTERN TRANSM
-MARATHON OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106218	80-3836	1711900717	108		CVSU GEN AMERICAN STEWART #4	COTTON VALLEY	3,0	UNITED GAS PIPE LINE
8106217	80-03837	1711900739	108		CVSU MAGNOLIA CRICHTON #1	COTTON VALLEY	3,0	UNITED GAS PIPE LINE
8106216	80-3838	1711900955	108		CVSU MAGNOLIA J H MIXON #2	COTTON VALLEY	3,0	UNITED GAS PIPE LINE
-MARSHALL EXPLORATION INC					RECEIVED: 11/21/80 JA: LA			
8106382	80-3840	1703120719	108		RAMSEY #5	LOGANSPORT	12,0	TENNESSEE GAS PIPELI
-MAY PETROLEUM INC					RECEIVED: 11/21/80 JA: LA			
8106412	80-3953	1703120616	103		HOSS SU12 A F WILLIAMS #1 (153649)	BETHANY-LONGSTREET	168,0	ARKANSAS LOUISIANA G
-MID LOUISIANA GAS COMPANY					RECEIVED: 11/21/80 JA: LA			
8106383	80-3892	1711122553	103		HLGC FEE GAS NO 921	MONROE FIELD	36,0	
8106384	80-3891	1711122554	103		HLGC FEE GAS NO 922	MONROE FIELD	34,5	
8106385	80-3890	1711122602	103		HLGC FEE GAS NO 936	MONROE FIELD	36,0	
8106386	80-3889	1711122604	103		HLGC FEE GAS NO 938	MONROE FIELD	36,0	
-MILES OIL & GAS CO					RECEIVED: 11/21/80 JA: LA			
8106329	80-3912	1712720851	103		BERTHA NEWSOM #1	HICKORY VALLEY	73,0	UNITED GAS PIPELINE
-MIDWAY PRODUCTION CO VI					RECEIVED: 11/21/80 JA: LA			
8106419	80-3978	1707321367	108		EARL BRADLEY #1	MONROE	4,5	MID LOUISIANA GAS CO
8106418	80-3979	1707321368	108		EARL BRADLEY #2	MONROE	4,5	MID LOUISIANA GAS CO
-NIP NI TUCK MINERALS INC					RECEIVED: 11/21/80 JA: LA			
8106281	80-3852	1706721587	103		PIPES #10	MONROE GAS FIELD	80,0	LOUISIANA GAS SERVIC
-NUCORP ENERGY INC					RECEIVED: 11/21/80 JA: LA			
8106390	80-3972	1705320615	103		ASHLAND EXPLORATION INC NO 1 (#165*	ROANOKE	180,0	UNITED GAS PIPE LINE
-OXY PETROLEUM INC					RECEIVED: 11/21/80 JA: LA			
8106349	80-3958	1703121221	103		ANDERSON NO 1	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE
8106347	80-3960	1703121239	103		ANDERSON NO 2	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE
8106360	80-3963	1703121251	103		BOISE SOUTHERN NO 2	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE
8106345	80-3962	1703121253	103		BOISE SOUTHERN NO 4	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE

VOLUME 330 PAGE 004

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106348	80-3959	1703121283	103		COLEMAN NO 1	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE
8106346	80-3961	1703121284	103		TURNER NO 1	WEST GRAND CANE	3,0	LOUISIANA INTRASTATE
*PLACID OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106332	80-3909	1708120354	103		MOHON NO 1	RED RIVER BULL BAYOU	150,0	ROMANOFF CORP
*RELIANCE TR-JV					RECEIVED: 11/21/80 JA: LA			
8106387	80-3888	1711122285	103		OLINKRAFT #15	MONROE	30,0	TEXAS GAS TRANSMISSI
8106389	80-3886	1711122286	103		OLINKRAFT #16	MONROE	30,0	TEXAS GAS TRANSMISSI
8106388	80-3887	1711122609	103		OLINKRAFT #17	MONROE	30,0	TEXAS GAS TRANSMISSI
8106344	80-3885	1711122159	103		OLINKRAFT #4	MONROE GAS	30,0	TEXAS GAS TRANSMISSI
*REMUDA OIL & GAS CO					RECEIVED: 11/21/80 JA: LA			
8106356	80-3970	1703120727	108		HUGHES NO 1	GROGAN	20,9	LUMAR GAS GATHERING
8106393	80-3971	1703120685	108		REDING NO 1	GROGAN	17,9	LUMAR GAS GATHERING
*REPUBLIC GAS GATHERING SYS INC					RECEIVED: 11/21/80 JA: LA			
8106197	80-3985	1707320231	108		CITIES SERVICE NO 4	MONROE GAS	2,0	IMC EXPLORATION CO
8106208	80-4013	1707320232	108		CITIES SERVICE NO 5	MONROE GAS	2,0	IMC EXPLORATION CO
8106205	80-4014	1707320233	108		CITIES SERVICE NO 6	MONROE GAS	2,0	IMC EXPLORATION CO
8106204	80-4015	1707320234	108		CITIES SERVICE NO 7	MONROE GAS	2,0	IMC EXPLORATION CO
8106199	80-3998	1707320263	108		NAVARRO NO 17	MONROE GAS	1,0	IMC EXPLORATION CO
8106200	80-3997	1707320265	108		NAVARRO NO 19	MONROE GAS	1,0	IMC EXPLORATION CO
8106201	80-4008	1707320266	108		NAVARRO NO 20	MONROE GAS	1,0	IMC EXPLORATION CO
8106215	80-4005	1707320268	108		NAVARRO NO 22	MONROE GAS	1,0	IMC EXPLORATION CO
8106210	80-4011	1707320269	108		NAVARRO NO 23	MONROE GAS	1,0	IMC EXPLORATION CO
8106198	80-3985	1707320336	108		NAVARRO NO 25	MONROE GAS	1,0	IMC EXPLORATION CO
8106203	80-3985	1707320337	108		NAVARRO NO 26	MONROE GAS	1,0	IMC EXPLORATION CO
8106212	80-4009	1702320343	108		NAVARRO NO 32	MONROE GAS	1,0	IMC EXPLORATION CO
8106214	80-4017	1706720325	108		NAVARRO NO 5	MONROE GAS	1,0	IMC EXPLORATION CO
8106196	80-4001	1706720327	108		NAVARRO NO 7	MONROE GAS	1,0	IMC EXPLORATION CO
8106213	80-4007	1706720328	108		NAVARRO NO 8	MONROE GAS	1,0	IMC EXPLORATION CO
8106209	80-4012	1706720329	108		NAVARRO NO 9	MONROE GAS	1,0	IMC EXPLORATION CO
8106211	80-4010	1707320199	108		THATCHER NO 2	MONROE GAS	2,0	IMC EXPLORATION CO
8106207	80-3993	1707320200	108		THATCHER NO 3	MONROE GAS	1,0	IMC EXPLORATION CO
8106206	80-3994	1707320206	108		THATCHER NO 4	MONROE GAS	2,0	IMC EXPLORATION CO
8106202	80-3985	1707320204	108		THATCHER NO 7	MONROE GAS	1,0	IMC EXPLORATION CO
*REPUBLIC GAS GATHERING SYSTEMS INC					RECEIVED: 11/21/80 JA: LA			
8106361	80-4003	1707320228	108		CITIES SERVICE NO 1	MONROE GAS	2,0	IMC EXPLORATION CO
8106286	80-3989	1702320229	108		CITIES SERVICE NO 2	MONROE GAS	2,0	IMC EXPLORATION CO
8106362	80-4002	1707320230	108		CITIES SERVICE NO 3	MONROE GAS	2,0	IMC EXPLORATION CO
8106285	80-3990	1707320264	108		NAVARRO NO 18	MONROE GAS	1,0	IMC EXPLORATION CO
8106365	80-3986	1707320267	108		NAVARRO NO 21	MONROE GAS	1,0	IMC EXPLORATION CO
8106366	80-3985	1707320270	108		NAVARRO NO 24	MONROE GAS	1,0	IMC EXPLORATION CO
8106363	80-3988	1707320338	108		NAVARRO NO 27	MONROE GAS	1,0	IMC EXPLORATION CO
8106282	80-3996	1707320339	108		NAVARRO NO 28	MONROE GAS	1,0	IMC EXPLORATION CO
8106364	80-3987	1707320340	108		NAVARRO NO 29	MONROE GAS	1,0	IMC EXPLORATION CO
8106284	81-3991	1707320341	108		NAVARRO NO 30	MONROE GAS	1,0	IMC EXPLORATION CO
8106283	80-3992	1707320342	108		NAVARRO NO 31	MONROE GAS	1,0	IMC EXPLORATION CO
8106406	80-3904	1707320198	108		THATCHER NO 1	MONROE GAS	2,0	IMC EXPLORATION CO
8106299	80-4004	1707320202	108		THATCHER NO 5	MONROE GAS	2,0	IMC EXPLORATION CO
8106290	80-3995	1707320203	108		THATCHER NO 6	MONROE GAS	2,0	IMC EXPLORATION CO
*ROLAR INC					RECEIVED: 11/21/80 JA: LA			
8106411	80-3954	1701120394	103		MD RA SUB J L KINCANNON NO 1 (#166*	ORETTA FIELD	36,5	TRUNKLINE GAS CO
*ROY M TEEL					RECEIVED: 11/21/80 JA: LA			
8106367	80-3984	1707321250	103		NACHTRIEB #12	MONROE GAS ROCK FIELD	2,2	IMC PIPELINE CO INC

VOLUME 330 PAGE 005

JD NO	JA DKT	API NO.	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106415	80-3982	1707321252	103		NACHTRIEB #13	MONROE GAS ROCK FIELD	2.2	IMC PIPELINE CO INC
8106414	80-3983	1707321253	103		NACHTRIEB #14	MONROE GAS ROCK FIELD	- 11.0	IMC PIPELINE CO INC
8106416	80-3981	1707321393	103		UNION PRODUCING CO #12	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
-S Q MYERS JR					RECEIVED: 11/21/80 JA: LA			
8106252	80-3876	1711900000	108		PET S U C HOLLEY 1-D	SIBLEY	15.0	UNITED GAS PIPE LINE
-S TEEL					RECEIVED: 11/21/80 JA: LA			
8106314	80-3877	1707321042	108		SHO-VAN #3	MONROE GAS ROCK	1.0	UNITED GAS PIPE LINE
-SHELL OIL CO					RECEIVED: 11/21/80 JA: LA			
8106351	80-3956	1709720568	102		LWX RA SUD MARTIN LUMBER NO 1	ELBA	120.0	TRANSCO GAS PIPELINE
8106410	80-3955	1709720589	102		LWX RA SUJ R L WOLFE NO 2	ELBA	110.0	TRANSCONTINENTAL GAS
-SUN OIL COMPANY (DELAWARE)					RECEIVED: 11/21/80 JA: LA			
8106244	80-3816	1703120147	108		C V LAFFITTE ET AL NO 1	RED RIVER BULL BAYOU	4.5	J-W OPERATING CO
8106305	80-3802	1703100276	108		CEASAR WHITE ET AL NO 1	RED RIVER BULL BAYOU	12.0	J-W OPERATING CO
8106302	80-3805	1703100660	108		DORSEY NO 1	RED RIVER BULL BAYOU	13.0	J-W OPERATING CO
8106303	80-3804	1703100269	108		E A NABORS EST F NO 1	RED RIVER BULL BAYOU	9.0	J-W OPERATING CO
8106250	80-3810	1703120230	108		E P THIGPEN A NO 1	RED RIVER BULL BAYOU	8.0	J-W OPERATING CO
8106245	80-3815	1703120160	108		INTERNATIONAL PAPER CO C NO 1	RED RIVER BULL BAYOU	5.0	J-W OPERATING CO
8106338	80-3791	1710121017	103		J RA SUA BIC NO 1-74	BELLE ISLE	1752.0	UNITED GAS PIPE LINE
8106248	80-3812	1703100000	108		JENKINS A NO 33	RED RIVER BULL BAYOU	6.0	J-W OPERATING CO
8106243	80-3817	1703100000	108		JENKINS NO 985-2	RED RIVER BULL BAYOU	8.5	J-W OPERATING CO
8106249	80-3811	1703100000	108		JENKINS 1716 NO 1	RED RIVER BULL BAYOU	5.0	J-W OPERATING CO
8106301	80-3806	1703100802	108		JENKINS 1716 NO 3	RED RIVER BULL BAYOU	10.5	J-W OPERATING CO
8106342	80-3797	1703100000	108		MANSFIELD HSW LBR CO C NO 2	RED RIVER BULL BAYOU	15.5	J-W OPERATING CO
8106247	80-3813	1703100806	108		MCCRAW J NO 1	RED RIVER BULL BAYOU	4.0	J-W OPERATING CO
8106300	80-3807	1703120176	108		NABORS F NO 6	RED RIVER BULL BAYOU	9.0	J-W OPERATING CO
8106289	80-3798	1703120123	108		PATTISON A NO 1	RED RIVER BULL BAYOU	7.0	J-W OPERATING CO
8106246	80-3814	1703120175	108		PEQUES B NO 3	RED RIVER BULL BAYOU	7.5	J-W OPERATING CO
8106251	80-3809	1703120173	108		PEQUES NO 8	RED RIVER BULL BAYOU	8.0	J-W OPERATING CO
8106307	80-3800	1703120194	108		RIVES ET AL NO 1	RED RIVER BULL BAYOU	10.0	J-W OPERATING CO
8106288	80-3799	1703100000	108		TITAN-DESOTO B NO 1	RED RIVER BULL BAYOU	8.0	J-W OPERATING CO
8106304	80-3803	1703100000	108		TITAN-SAMPLE NO 2	RED RIVER BULL BAYOU	6.0	J-W OPERATING CO
8106369	80-3808	1703100277	108		W K WILLIAMS ET AL NO 3	RED RIVER BULL BAYOU	5.0	J-W OPERATING CO
8106306	80-3801	1703100995	108		WHEATLEY NO 2	RED RIVER BULL BAYOU	14.5	J-W OPERATING CO
-SUPERIOR OIL CO					RECEIVED: 11/21/80 JA: LA			
8106341	80-3845	1702321376	107		S L 2038 NO 34	DEEP LAKE	1500.0	MICHIGAN WISCONSIN P
-TEEL 78 A					RECEIVED: 11/21/80 JA: LA			
8106224	80-3830	1706721387	108		KENO A #1	MONROE GAS ROCK FIELD	21.1	IMC PIPELINE CO INC
8106239	80-3821	1706721457	108		KENO A #10	MONROE GAS ROCK FIELD	19.3	IMC PIPELINE CO INC
8106237	80-3823	1706721462	108		KENO A #11	MONROE GAS ROCK FIELD	3.6	IMC PIPELINE CO INC
8106397	80-3897	1706721388	108		KENO A #2	MONROE GAS ROCK FIELD	7.7	IMC PIPELINE CO INC
8106372	80-3826	1706721390	108		KENO A #4	MONROE GAS ROCK FIELD	7.7	IMC PIPELINE CO INC
8106236	80-3824	1706721393	108		KENO A #5	MONROE GAS ROCK FIELD	21.1	IMC PIPELINE CO INC
8106371	80-3827	1706721411	108		KENO A #6	MONROE GAS ROCK FIELD	7.3	IMC PIPELINE CO INC
8106370	80-3828	1706721412	108		KENO A #7	MONROE GAS ROCK FIELD	19.3	IMC PIPELINE CO INC
8106373	80-3825	1706721456	108		KENO A #9	MONROE GAS ROCK FIELD	18.3	IMC PIPELINE CO INC
8106238	80-3822	1706721418	108		SANDIDGE A #14	MONROE GAS ROCK	20.4	UNITED GAS PIPELINE
8106225	80-3829	1706721401	108		SANDIDGE A #6	MONROE GAS ROCK FIELD	20.0	UNITED GAS PIPE LIN
-TEEL 79 A					RECEIVED: 11/21/80 JA: LA			
8106417	80-3980	1707321232	103		NACHTREIB A #6	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
8106222	80-3832	1707321207	108		NACHTRIEB A #1	MONROE GAS RICK FIELD	15.6	IMC PIPELINE CO INC
8106221	80-3833	1707321208	108		NACHTRIEB A #2	MONROE GAS ROCK FIELD	2.6	IMC PIPELINE CO INC
8106220	80-3834	1707321230	108		NACHTRIEB A #4	MONROE GAS ROCK FIELD	9.8	IMC PIPELINE CO INC

VOLUME 330 PAGE 006

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106219	80-3835	1707321231	108		NACHTRIEB A #5	MONROE GAS ROCK FIELD	19,7	IMC PIPELINE CO INC
-TENNECO OIL COMPANY					RECEIVED: 11/21/80 JA: LA			
8106337	80-3792	1701320382	103		R C BAKER NO 1	LAKE BISTINEAU	780,0	
-TEXACO INC					RECEIVED: 11/21/80 JA: LA			
8106287	80-3907	1710922206	103		CI LWR 70-A RB SU SL 188 692	CAILLOU ISLAND	550,0	KAISER ALUMINUM & CH
8106381	80-3841	1770720098	103		SL 340 MOUND POINT NO 75	MOUND POINT	2747,0	TEXAS GAS TRANSMISSI
8106331	80-3910	1709920813	103		ST MARTIN LAND CO 68	PLUMB BOB	88,0	UNITED GAS PIPE LINE
8106354	80-3847	1710922190	103		VUM DGL U-13 100	DOG LAKE	1,0	TEXAS GAS TRANSMISSI
8106340	80-3846	1710922189	103		VUM DGL U-13 101	DOG LAKE	5,0	TEXAS GAS TRANSMISSI
-TEXAS OIL & GAS CORP					RECEIVED: 11/21/80 JA: LA			
8106235	80-3839	1706120251	103		HOSS RA SUL WILLIAMS P #1	CLAY	700,0	DELHI GAS PIPELINE C
-TEXOMA PRODUCTION CO					RECEIVED: 11/21/80 JA: LA			
8106360	80-3842	1711122147	102		WOODFUN-LITTLETON #1	WILDCAT	365,0	
-THE LOUISIANA LAND & EXPLORATION CO					RECEIVED: 11/21/80 JA: LA			
8106350	80-3957	1702321472	107		ELIZABETH C MCCALL NO 1	SOUTH GRAND CHENIERE	2080,0	
-UNION TEXAS PETROLEUM					RECEIVED: 11/21/80 JA: LA			
8106357	80-3966	1706120224	102		GRAY RA SUC DHU DOWLING 30 NO 2	TERRYVILLE SEC 30 T19N R	219,0	LOUISIANA GAS PURCHA
-VIKING RESOURCES					RECEIVED: 11/21/80 JA: LA			
8106407	80-3903	1711122545	103		OLIN NO 1	MONROE	20,0	PETRO-LEWIS FUNDS IN
8106409	80-3901	1707321574	103		REA GREEN NO 1	MONROE	18,0	PETRO-LEWIS FUNDS
8106408	80-3902	1707321575	103		REA GREEN NO 2	MONROE	18,0	PETRO-LEWIS FUNDS IN
-W A MONCRIEF					RECEIVED: 11/21/80 JA: LA			
8106413	80-3952	1702720516	102		PET RA SU V THATCHER NO 2	PANTHER CREEK	30,0	
8106413	80-3952	1702720516	103		PET RA SU V THATCHER NO 2	PANTHER CREEK	30,0	
8106315	80-3951	1702720530	102		PET RA SUO GRAY A #1	PANTHER CREEK	76,0	
8106315	80-3951	1702720530	103		PET RA SUO GRAY A #1	PANTHER CREEK	76,0	
-W H KIMBELL					RECEIVED: 11/21/80 JA: LA			
8106330	80-3911	1703121342	103		H G CLARK JR #1 SERIAL #169754	HOLLY FIELD 337 8 & 400	250,0	J-W OPERATING CO
-WILLIAMS EXPLORATION COMPANY					RECEIVED: 11/21/80 JA: LA			
8106334	80-3795	1771420075	103		STATE LEASE 7655 NO 2	TIMBALIER BAY	1168,0	LOUISIANA RESOURCES

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 29, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38541 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 331]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued December 5, 1980.

~~UNITED STATES OF AMERICA~~
~~FEDERAL ENERGY REGULATORY COMMISSION~~

VOLUME 331

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
*AJAX OIL & GAS CORP INC					RECEIVED: 11/24/80 JA: KS			
8106475	K 80-0726	1504900000	108		GLASSCOCK #2		0.0	UNION GAS SYSTEM INC
8106476	K 80-0725	1504900000	108		GLASSCOCK #3		0.8	UNION GAS SYSTEM INC
8106477	K 80-0724	1504900000	108		PICKERING #3		3.6	UNION GAS SYSTEM INC
8106514	K-80-0722	1504900000	108		SCHRADER #3		6.1	UNION GAS SYSTEM INC
8106513	K-80-0723	1504900000	108		SCHRADER 28		6.4	UNION GAS SYSTEM INC
8106515	K-80-0721	1504900000	108		SCHRADER 48		6.1	UNION GAS SYSTEM INC
*ALADDIN PETROLEUM CORP					RECEIVED: 11/24/80 JA: KS			
8106563	K-80-0868	1515920743	108		CALDWELL #1 APC	LYONS	5.4	NORTHERN NATURAL GAS
8106561	K-80-0870	1515920773	108		CALDWELL #2 AP #6	LYONS	20.0	NORTHERN NATURAL GAS
8106431	K80-0873	1515920730	108		EDWARDS #1 AP #5	LYONS	3.7	NORTHERN NATURAL GAS
8106562	K-80-0869	1515920733	108		HABIGER #1 AP #3	LYONS	11.7	NORTHERN NATURAL GAS
8106432	K80-0872	1515920707	108		HOLLINGER #1 PE #17	LYONS	3.0	NORTHERN NATURAL GAS
8106430	K80-0874	1515920731	108		HOSPITAL #1 AP #1	LYONS	8.6	NORTHERN NATURAL GAS
8106564	K-80-0867	1515920666	108		JANSSEN E #1 PE #11	GENESEO	6.3	NORTHERN NATURAL GAS
8106560	K-80-0871	1515920702	108		MADSEN #1 APC #1	LYONS	2.2	NORTHERN NATURAL GAS
8106429	K80-0875	1515920732	108		MILLER C #1 AP #2	LYONS	0.9	NORTHERN NATURAL GAS
8106428	K80-0876	1515900000	108		MILLER S #1 APC #3	LYONS	1.4	NORTHERN NATURAL GAS
8106427	K80-0877	1515920734	108		SANGSTER B #1 AP #4	LYONS	4.0	NORTHERN NATURAL GAS
8106426	K80-0878	1515920584	108		SANGSTER R #1 APC #2	LYONS	5.9	NORTHERN NATURAL GAS
8106425	K80-0879	1515920660	108		SCHMIDT C #1 PE #10	GENESEO	9.5	NORTHERN NATURAL GAS
8106424	K80-0880	1515920703	108		STOCKHAM #1 PE #15	LYONS	4.0	NORTHERN NATURAL GAS
8106423	K80-0881	1515920701	108		WHARTON #1 PE #16	LYONS	6.3	NORTHERN NATURAL GAS
8106422	K 80-0882	1515920651	108		WILLMS R #1 PE #4	GENESEO	7.6	NORTHERN NATURAL GAS
*AMOCO PRODUCTION CO					RECEIVED: 11/24/80 JA: KS			
8106483	K 80-0798	1505500000	108		BOARD OF REGENTS NO 1	HUGOTON	13.5	CITIES SERVICE GAS C
8106618	K 79-1670	1509320629	103		C J TRICKER GAS UNIT WELL #1	PANOMA	70.0	CITIES SERVICE GAS C
8106621	K 79-1668	1509320630	103		FINKELSTEIN GAS UNIT WELL #2	PANOMA	70.0	CITIES SERVICE GAS C
8106439	K80-0763	1512900000	108		LUTZ GAS UNIT NO 1 (2ND FILING)	HUGOTON	21.0	CITIES SERVICE GAS C
8106440	K 80-0762	1509300000	108		MARTIN GAS UNIT C NO 1 (2ND FILING)	HUGOTON	19.5	CITIES SERVICE GAS C
8106619	K 79-1669	1509320634	103		POWERS GAS UNIT WELL #2	PANOMA	70.0	CITIES SERVICE GAS C
8106550	K-80-0862	1508120171	103		TILLER GAS UNIT WELL #2	HUGOTON	75.0	CITIES SERVICE GAS C
8106617	K 79-1671	1509320627	103		WHEELER GAS UNIT B WELL #2	PANOMA	70.0	CITIES SERVICE GAS C
*ANADARKO PRODUCTION COMPANY					RECEIVED: 11/24/80 JA: KS			
8106576	K-80-0800	1515120747	103		COBB A NO 1	HARDING WEST	45.0	CENTRAL STATES GAS C
8106479	K 80-1234	1517520375	102		FINCHAM A-4 WELL	SHUCK	127.0	CIMARRON-QUINQUE SYS
8106420	K80-0785	1517520466	102		HITCH G-3	SHUCK	87.0	CIMARRON-QUINQUE
8106553	K-80-0751	1517520461	102		HITCH I NO 2	SHUCK FIELD	115.0	CIMARRON-QUINQUE SYS
8106555	K-80-0801	1512920434	102		JONES C-3	CIMARRON VALLEY NORTH	372.0	CIMARRON-QUINQUE SYS
8106484	K 80-0796	1506720582	103		MCCANDLESS B NO 1	PANOMA COUNCIL GROVE	44.0	PANHANDLE EASTERN PI

BILLING CODE 6450-85-M

VOLUME 331 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*ASSOCIATED PETROLEUM CONSULTANTS IN					RECEIVED: 11/24/80 JA: KS			
8106421	K 80-0710	1509720586	102		RICH NO 1 1-15-097-20586	GREENSBURG NO EXT	100.0	PANHANDLE EASTERN PI
8106487	K 80-0703	1509720586	103		RICH NO 1-15-097-20586	GREENSBURG NO EXT	100.0	PANHANDLE EASTERN PI
*BENSON MINERAL GROUP					RECEIVED: 11/24/80 JA: KS			
8106486	K 80-0789	1512522705	103		ERWIN #2-32	JEFFERSON-SYCAMORE	149.7	UNION GAS SYSTEMS IN
8106557	K-80-0815	1512522702	103		INGMIRE #2-32	JEFFERSON-SYCAMORE	12.8	UNION GAS SYSTEMS IN
8106575	K-80-0802	1512522713	103		KAUFMAN #2-31	JEFFERSON-SYCAMORE	9.7	UNION GAS SYSTEMS IN
8106574	K80-0803	1512522714	103		KAUFMAN #3-31	JEFFERSON-SYCAMORE	7.3	UNION GAS SYSTEMS IN
8106570	K80-0849	1512522715	103		KAUFMAN #4-31	JEFFERSON-SYCAMORE	620.5	UNION GAS SYSTEMS IN
8106616	K 79-1750	1501921026	108		PATTERSON #1-15	WAYSIDE - HAVANNA	20.8	CITIES SERVICE
8106602	K80-0742	1514520689	102		POWERS #1-30	BRYANT	0.0	NORTHERN NATURAL GAS
8106551	K-80-0861	1512522701	103		RANDOLPH 1-30	JEFFERSON-SYCAMORE	1825.0	UNION GAS SYSTEMS IN
8106537	K-80-0893	1512522709	102		ROBERTS 3-31	JEFFERSON-SYCAMORE	6.2	UNION GAS SYSTEMS IN
8106594	K 80-0209	1504720315	108		SALSER #1	WIL	13.1	PANHANDLE EASTERN PI
8106596	K 80-0787	1504720710	103		SALSER B #1-22	WIL EXTENSION	0.0	PANHANDLE EASTERN PI
8106510	K-80-0827	1500922051	103		UHMEN A #1-14	OTIS ALBERT	67.6	NORTHERN GAS PRODUCT
8106603	K80-0741	1514520691	102		WEINS #1-19	BRYANT	40.1	NORTHERN NATURAL GAS
8106538	K-80-0892	1512522710	102		WISE #2-5	JEFFERSON-SYCAMORE	18.3	UNION GAS SYSTEMS IN
8106595	K 80-0788	1512522710	103		WISE #2-5	JEFFERSON-SYCAMORE	16.3	UNION GAS SYSTEMS IN
8106604	K80-0740	1504720678	102		WOOD A #1-15	WIL EXTENSION	0.0	PANHANDLE EASTERN PI
8106605	K-80-0739	1504720709	102		WOOD C #1-15	WIL EXTENSION	0.0	PANHANDLE EASTERN PI
*BEREN CORPORATION					RECEIVED: 11/24/80 JA: KS			
8106559	K-79-0886	1518720243	102		BEAUCHAMP #2	BEAUCHAMP	75.0	KANSAS-NEBRASKA NATU
8106478	K79-0885	1518720268	102		CARRIE #1	BEAUCHAMP	200.0	KANSAS-NEBRASKA NATU
8106558	K-79-0887	1518720266	102		CARRIE A #1	BEAUCHAMP	0.0	KANSAS-NEBRASKA NATU
8106556	K-80-0477	1518720311	102		CARRIE C #1	BEAUCHAMP	51.0	KANSAS NEBRASKA
8106572	K80-0842	1502520341	102		RANDALL #1		101.0	NORTHERN NATURAL GAS
*BRUNSON-SPINES INC					RECEIVED: 11/24/80 JA: KS			
8106587	K 80-0731	1515120751	102		HENDRICKS NO 1	WELLSFORD EAST EXT	164.3	PANHANDLE EASTERN PI
*BYRON E HUMMON JR					RECEIVED: 11/24/80 JA: KS			
8106565	K-80-0866	1502520368	103		SCHEIB #1	LEXINGTON	180.0	THE KANSAS POWER AND
*CHAMPLIN PETROLEUM COMPANY					RECEIVED: 11/24/80 JA: KS			
8106461	K-80-0753	1505520362	103		EARNEST NO 2	PANOMA (COUNCIL GROVE)	164.3	KANSAS NEBRASKA NATU
8106509	K-80-0828	1505520312	103		FOSTER UNIT #2	PANOMA	50.0	KANSAS NEBRASKA NATU
8106460	K80-0754	1509320551	103		GARDEN B NO 2	PANOMA	50.0	COLORADO INTERSTATE
8106462	K80-0752	1505520381	103		LEAVITT NO 3	PANOMA FIELD	997.0	KANSAS NEBRASKA NATU
*CITIES SERVICE COMPANY					RECEIVED: 11/24/80 JA: KS			
8106542	K-80-0750	1512920428	103		HORTON B #3	GREENWOOD	21.9	NORTHERN NATURAL GAS
8106453	K 80-0844	1509320564	103		LAKIN A #2	PANOMA	35.0	KANSAS NEBRASKA NATU
8106452	K 80-0843	1512920442	103		RENFREW B - 2	GREENWOOD	54.8	NORTHERN NATURAL GAS
*CONTINENTAL ENERGY					RECEIVED: 11/24/80 JA: KS			
8106597	K 80-0786	1505500000	108		LEE KISNER #1	HUGOTON FIELD	10.0	CITIES SERVICE GAS C
8106454	K 80-0845	1509320525	108		MANNING #1	COUNCIL GROVE	6.8	NORTHERN NATURAL GAS
*DIAMOND SHAMROCK CORPORATION					RECEIVED: 11/24/80 JA: KS			
8106531	K-80-0809	1511920411	103		HARVEY FELDMAN NO 2	HISSOM	30.0	PANHANDLE EASTERN PI
*DIETRICH EXPLORATION COMPANY INC					RECEIVED: 11/24/80 JA: KS			
8106434	K80-0768	1502520344	103		RANDALL #1	SNAKE CREEK	360.0	NORTHERN NATURAL GAS
*DOUG MCMULLIN					RECEIVED: 11/24/80 JA: KS			
8106488	K 80-0677	1509120086	102		SORKIN NO 1		45.0	PHILLIPS PETROLEUM
*E K LOEWEN					RECEIVED: 11/24/80 JA: KS			
8106495	K 80-0717	1511300000	103		D BOESKER NO 1	RITZ-CANTON	36.5	SOUTHERN GAS INC
8106494	K 80-0718	1511300000	103		ESTHER VOGTS NO 1	RITZ-CANTON	36.0	SOUTHERN GAS INC

VOLUME 331 PAGE 003

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106493	K 80-0719	1511300000	103		J KOEHN NO 1	RITZ-CANTON	36.0	SOUTHERN GAS INC
8106496	K 80-0716	1511320644	103		L BULLINGER C NO 1	RITZ-CANTON	21.6	SOUTHERN GAS INC
-ENERGY RESOURCES OIL & GAS CORP					RECEIVED: 11/24/80 JA: KS			
8106481	K 80-0792	1511920389	103		EDWARDS WELL NO 1		109.5	NORTHERN NATURAL GAS
-GEORGE R JONES					RECEIVED: 11/24/80 JA: KS			
8106464	K80-0711	1500720530	108		CLARKE NO 1		10.0	CITIES SERVICE GAS C
8106516	K-80-0720	1500720652	108		PHYE NO 1	WHELAN WEST SEC 25-31S-1	15.0	CITIES SERVICE GAS C
-GLACIER PETROLEUM CO					RECEIVED: 11/24/80 JA: KS			
*8106492	K 80-0705	1505920786	102		MELVIN BARTON #1	POMONA	15.0	CITIES SERVICE GAS C
*8106473	K-80-0728	1505721160	102		OLSEN #1	POMONA	15.0	CITIES SERVICE GAS C
-GRAVES DRILLING CO INC					RECEIVED: 11/24/80 JA: KS			
8106568	K-80-0856	1500720964	103		DEWEESE NO 1	BLOOMER	4.1	KANSAS POWER & LIGHT
-GREEN WOLF OIL COMPANY					RECEIVED: 11/24/80 JA: KS			
8106456	K80-0758	1509320571	103		DANNEBOHN #1	HUGOTON	30.0	PANHANDLE EASTERN PI
8106455	K80-0759	1509320657	103		DANNEBOHN #2	PANOMA	200.0	PANHANDLE EASTERN PI
8106442	K 80-0760	1509320570	103		SNELL #1	HUGETON	30.0	PANHANDLE EASTERN PI
8106441	K 80-0761	1509320658	103		SNELL #2	PANOMA	100.0	PANHANDLE EASTERN PI
-GULF OIL CORPORATION					RECEIVED: 11/24/80 JA: KS			
8106573	K80-0804	1509700000	108		HARDY /B/ #1	NICHOLS	8.0	PANHANDLE EASTERN PI
8106480	K 80-0795	1501920924	102		KYGAR NO 2	HEWINS/LAYTON	140.0	CITIES SERVICE GAS C
-HALLIBURTON OIL PRODUCING COMPANY					RECEIVED: 11/24/80 JA: KS			
8106485	K 80-0790	1514520619	103		FRICK A #1	ZOOK	0.0	KANSAS-NEBRASKA GAS
8106482	K 80-0791	1514520647	103		W T SMITH #1	EVERS (ABANDONED)	109.5	KANSAS-NEBRASKA GAS
-HAWKINS OIL & GAS INC					RECEIVED: 11/24/80 JA: KS			
8106463	K80-0713	1502520365	103		THEIS #1-14	MCKINNEY	120.0	
8106497	K 80-0715	1511920400	103		THEIS #1-36	MCKINNEY	25.0	
8106498	K80-0714	1502520360	103		THEIS #1-6	MCKINNEY	150.0	
-HERNDON OIL & GAS CO					RECEIVED: 11/24/80 JA: KS			
8106582	K 80-0835	1503500000	108		EVA BOLLER #2	MURPHY	5.5	CITIES SERVICE GAS C
8106546	K-80-0744	1519100000	108		SHUTLER #1	MURPHY	5.5	CITIES SERVICE GAS C
8106511	K-80-0826	1504700000	108		ZUERCHER NO 1	EMBRY	14.0	NORTHERN NATURAL GAS
8106569	K-80-0854	1504720329	108		ZUERCHER NO 2	EMBRY	12.5	NORTHERN NATURAL GAS
-ILUS INDUSTRIES INC					RECEIVED: 11/24/80 JA: KS			
8106579	K79-1380	1505320528	103		HELWICK #2	ELLSWORTH	180.0	NORTHERN NATURAL GAS
8106466	K79-1633	1505320533	103		HELWICK #4	ELLSWORTH	49.0	NORTHERN NATURAL GAS
8106578	K80-0109	1505320553	103		SVATY #2	ELLSWORTH	72.0	NORTHERN NATURAL GAS
-IMPERIAL OIL COMPANY					RECEIVED: 11/24/80 JA: KS			
8106458	K80-0756	1509720652	103		BINFORD #2-2	WELLSFORD NE	34.7	PANHANDLE EASTERN PI
8106527	K-80-0814	1502520333	102		BRENSING #3-13	EXCEL	18.2	NORTHERN NATURAL GAS
8106457	K80-0757	1509720626	103		RINKEL A #3-11	WELLSFORD NE	34.7	PANHANDLE EASTERN PI
8106505	K-80-0780	1509720661	103		RINKEL B #2-11	WELLSFORD NE	365.0	PANHANDLE EASTERN PI
8106601	K80-0781	1509720661	103		RINKEL B #2-11	WELLSFORD NE	91.2	PANHANDLE EASTERN PI
8106564	K 80-0831	1509720664	103		STROUD #1-2	WELLSFORD NORTH	54.7	PANHANDLE EASTERN PI
8106530	K-80-0811	1509720592	102		WOOLERY #2-19	EXCEL	12.4	NORTHERN NATURAL GAS
8106529	K-80-0812	1509720599	102		WOOLERY #3-19	EXCEL	18.2	NORTHERN NATURAL GAS
-J MARK RICHARDSON					RECEIVED: 11/24/80 JA: KS			
8106583	K 80-0834	1509720106	108		JEWETT #1	CHURCH PROSPECT	12.0	KANSAS-NEBRASKA NATU
8106517	K-80-0912	1504720125	108		SCHULTZ #1		11.0	KAN-NEB NAT GAS CO I
-JOHN R LEBOSQUET					RECEIVED: 11/24/80 JA: KS			
8106526	K-80-0816	1518920479	103		#1-CULLISON	HUGOTON-PANOMA COUNCIL G	44.0	NORTHERN NATURAL GAS
-K & O OIL CORP					RECEIVED: 11/24/80 JA: KS			
8106504	K-80-0778	1500720923	103		RUCKER #1		50.0	PEOPLES NATURAL GAS

VOLUME 331 PAGE 004

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*KANSAS PETROLEUM INC					RECEIVED: 11/24/80 JA: KS			
8106502	K-80-0776	1514520135	108		STEGALL #1	ZOOK (BENSON)	14.0	KANSAS-NEBRASKA NATU
*KANSAS-NEBRASKA NATURAL GAS CO INC					RECEIVED: 11/24/80 JA: KS			
8106547	K-80-0743	1509320688	103		CAMPBELL 12-2	PANOMA COUNCIL GROVE	87.0	KANSAS-NEBRASKA NATU
8106474	K80-0727	1505520400	103		LAYMAN 4-2	PANOMA COUNCIL GROVE	87.0	
8106536	K-80-0694	1509300000	108		MILES 3	HUGOTON	16.0	
8106506	K-80-0779	1509320689	103		TATE 2-2	PANOMA	87.0	KANSAS-NEBRASKA NATU
*KBW OIL & GAS CO					RECEIVED: 11/24/80 JA: KS			
8106585	K 80-0736	1500720852	103		HARBAUGH #1	STRANATHAN	182.0	PANHANDLE EASTERN PI
*L D DRILLING INC					RECEIVED: 11/24/80 JA: KS			
8106549	K-80-0863	1504700000	103		STARKEY #1	TROUSDALE	0.0	KANSAS NEBRASKA NATU
*LADD PETROLEUM CORPORATION					RECEIVED: 11/24/80 JA: KS			
8106469	K80-0820	1507500000	108		HCU 0941	BRADSHAW	20.0	KANSAS NEBRASKA NATU
8106470	K 80-0794	1507500000	108		HCU 3431 #1	BRADSHAW	6.0	KANSAS-NEBRASKA NATU
8106471	K 80-0793	1507500000	108		HCU 3531 #1	BRADSHAW	8.0	KANSAS-NEBRASKA NATU
8106468	K80-0821	1507500000	108		HCU-8041	BRADSHAW	12.0	KANSAS NEBRASKA NATU
*LEAR PETROLEUM CORPORATION					RECEIVED: 11/24/80 JA: KS			
8106552	K-80-0859	1503320371	102		JELLISON #3-5	WILDCAT	100.0	MICHIGAN-WISCONSIN P
*LEAR PETROLEUM EXPLORATION INC					RECEIVED: 11/24/80 JA: KS			
8106567	K-80-0858	1503320350	102		ZIELKE #2-8	WILDCAT	100.0	MICHIGAN WISCONSIN P
*LEE BANKS					RECEIVED: 11/24/80 JA: KS			
8106571	K80-0846	1511920220	108		HOBART #1	MEADE	17.0	NORTHERN NATURAL GAS
*LEE PHILLIPS OIL CO					RECEIVED: 11/24/80 JA: KS			
8106577	K 80-0799	1509520887	103		NO 1 PAULINE OAK	DRESDEN EXT	4.3	CENTRAL STATES GAS C
*H L SLOAN					RECEIVED: 11/24/80 JA: KS			
8106543	K-80-0749	1515100000	108		LEHON #1	CARVER-ROBBINS	21.8	PANHANDLE EASTERN PI
*MESA PETROLEUM					RECEIVED: 11/24/80 JA: KS			
8106490	K 80-0616	1511920384	103		BARRAGREE #2-25	CIMARRON BEND	250.0	KANSAS POWER & LIGHT
8106489	K 80-0617	1517520448	102		BECK #1-9	WILDCAT	100.0	
8106491	K 80-0615	1508120154	103		GREGG 8-32	PANOMA COUNCIL GROVE	237.0	COLORADO INTERSTATE
8106589	K 80-0614	1508120155	103		WINSTEAD 2-29	PANOMA COUNCIL GROVE	132.0	COLORADO INTERSTATE
*MESSMAN-RINEHART CORP					RECEIVED: 11/24/80 JA: KS			
8106449	K 80-0839	1514500000	108		BARSTOW-GRIMES #1	CARPENTER NORTH	6.0	KANSAS-NEBRASKA NATU
8106580	K80-0838	1504720159	108		BRIGHT #3	BRADBRIDGE	11.0	KANSAS-NEBRASKA NATU
8106581	K80-0837	1504700000	108		KLEIN #1	BRADBRIDGE	4.6	KANSAS-NEBRASKA NATU
8106438	K80-0765	1511500000	108		LEHMANN-HOBEIN #1	ANTELOPE	19.0	CITIES SERVICE GAS C
8106437	K 80-0764	1500700000	108		LENKNER #1	AETNA	13.0	CITIES SERVICE GAS C
8106435	K80-0767	1511500000	108		OYER-HOBEIN #1	ANTELOPE	10.0	CITIES SERVICE GAS C
8106436	K80-0766	1511500000	108		HOBEIN-MAKOVEC #1	ANTELOPE	22.0	CITIES SERVICE GAS C
8106450	K 80-0840	1514500000	108		PETERS #1	BENSON	1.0	KANSAS-NEBRASKA NATU
8106451	K 80-0841	1514520080	108		WILSON #1	GARFIELD	0.1	KANSAS-NEBRASKA NATU
*MIDWESTERN EXPLORATION CO					RECEIVED: 11/24/80 JA: KS			
8106533	K-80-0806	1512920415	103		ROSSON NO 1-19	SPARKS FIELD (WABAUNSEE)	73.0	COLORADO INTERSTATE
8106534	K-80-0805	1512920415	103		ROSSON NO 1-19	SPARKS FIELD (LOWER MORR	146.0	COLORADO INTERSTATE
*MOBIL OIL CORP					RECEIVED: 11/24/80 JA: KS			
8106599	K80-0783	1518920505	103		KIMZEY NO 1 UNIT NO 2	PANOMA	70.0	NORTHERN NATURAL GAS
8106528	K-80-0813	1518920504	103		KNIER NO 2 UNIT NO 3	PANOMA	70.0	NORTHERN NATURAL GAS
8106600	K80-0782	1509320695	103		TATE-PUYEAR UNIT NO 1	PANOMA	70.0	CITIES SERVICE GAS C
*MONSANTO COMPANY					RECEIVED: 11/24/80 JA: KS			
8106465	K80-0706	1509520936	103		HARTMAN NO 3	SPIVEY GRABS	36.0	KANSAS POWER & LIGHT
*MULL DRILLING CO INC					RECEIVED: 11/24/80 JA: KS			
8106566	K-80-0865	1500700000	108		CLARKE #1	MEDICINE RIVER	11.0	CITIES SERVICE GAS C

VOLUME 331 PAGE 005

JD NO	JA DKT	API NO	SEC	D WELL NAME		FIELD NAME	PROD	PURCHASER
*PAN EASTERN EXPLORATION COMPANY				RECEIVED: 11/24/80	JA: KS			
8106501	K-80-0777	1512900000	108	LACKEY #1-14		HUGOTON	18.0	PANHANDLE EASTERN PI
*PETROLEUM ENTERPRISES				RECEIVED: 11/24/80	JA: KS			
8106500	K 80-0808	1503522459	102	KELLY #1		POSEY	540.0	COLONIAL CORP
8106532	K-80-0807	1503522376	102	STEPHEN #1		POSEY	10.8	COLONIAL CORP
*PETROLEUM INC				RECEIVED: 11/24/80	JA: KS			
8106499	K 80-0836	1511920244	102	BARBY UNIT #1			100.0	NORTHERN NATURAL GAS
8106472	K 80-0729	1509300000	108	BELL GAS UNIT #1		HUGOTON	12.0	CITIES SERVICE GAS C
8106588	K 80-0730	1509700000	108	WITT K #1		MULLINVILLE SE	10.0	NORTHERN NATURAL GAS
*RESOURCES INVESTMENT CORPORATION				RECEIVED: 11/24/80	JA: KS			
8106503	K-80-0775	1505320573	103	KANAK #1		S E KANAPOLIS	191.0	NORTHERN NATURAL GAS
*RUPE OIL CO INC				RECEIVED: 11/24/80	JA: KS			
8106448	K 80-0883	1515100000	103	#1 MOTT RANCH		UNKNOWN	125.0	CENTRAL STATES GAS C
8106598	K 80-0784	1504720457	103	DESEMO #1		MCCLANAHAN WEST	60.0	KANSAS-NEBRASKA NATU
*SAMUEL GARY OIL PRODUCER				RECEIVED: 11/24/80	JA: KS			
8106554	K-80-0745	1502300000	102	#1 MCCAUSTLAND		CAVALRY CREEK	255.0	NORTHERN NATURAL GAS
*THE MAURICE L BROWN COMPANY				RECEIVED: 11/24/80	JA: KS			
8106512	K-80-0825	1505520384	103	LANG #4		NUNN	5.5	KANSAS-NEBRASKA NATU
8106524	K-80-0823	1517120117	108	LANG A #1		ROTHFELDER	3.8	KANSAS-NEBRASKA NATU
8106525	K-80-0822	1517120149	108	LANG A #2		GRUBON	9.8	KANSAS-NEBRASKA NATU
8106507	K-80-0830	1509720595	103	NEILSEN #1		ALFORD	36.0	KANSAS GAS SUPPLY CO
8106508	K-80-0829	1505520409	103	STRACKELJOHN #2		HUGOTON	29.0	NORTHERN NATURAL GAS
*THOMPSON OIL & GAS LTD				RECEIVED: 11/24/80	JA: KS			
8106433	K 80-0773	1500122157	103	HESS #6		LAHARPE	7.5	
*TRIANGLE PETROLEUM CO INC				RECEIVED: 11/24/80	JA: KS			
8106614	K 79-1954	1552199300	108	WHITE A-#1		JEFFERSON-SYCAMORE	12.0	KANSAS GAS CO INC
*VINCENT OIL CORP				RECEIVED: 11/24/80	JA: KS			
8106620	K 79-1058	1507720492	103	JACOBS #1		SPIVEY-GRABS	63.0	
8106615	K 79-1912	1500720769	103	KETNER #1		GLICK EXTENSION	270.0	
*W B OSBORN JR (OPERATOR)				RECEIVED: 11/24/80	JA: KS			
8106539	K-80-0891	1509300000	108	BURNETT-WIATT #1		HUGOTON	18.5	COLORADO INTERSTATE
8106590	K 80-0588	1506720574	103	COKE 1-A		PANOMA (COUNCIL GROVE)	90.0	COLORADO INTERSTATE
8106608	K80-0901	1509320582	108	DAVID #3-A		PANOMA	5.1	PANHANDLE EASTERN PI
8106607	K80-0902	1509320555	108	DAVIS #2-A		PANOMA	1.7	COLORADO INTERSTATE
8106520	K-80-0907	1503521784	108	DOBBS #1		ESTES	15.9	CITIES SERVICE GAS C
8106540	K-80-0890	1509320235	108	DUVAL #1-A		PANOMA	18.5	NORTHERN NATURAL GAS
8106519	K-80-0908	1509320485	108	ERNIE #1-A		PANOMA	16.9	PANHANDLE EASTERN PI
8106535	K-80-0895	1509320579	108	FOSTER #1-A		PANOMA	15.6	PANHANDLE EASTERN PI
8106523	K-80-0903	1507520238	108	HERRMANN #2		BRADSHAW	14.2	NORTHERN NATURAL GAS
8106591	K 80-0586	1506720575	103	HICKOK #1-A		PANOMA (COUNCIL GROVE)	105.0	COLORADO INTERSTATE
8106592	K 80-0585	1506720576	103	HICKOK #2-A		PANOMA (COUNCIL GROVE)	90.0	COLORADO INTERSTATE
8106522	K-80-0904	1507520154	108	JONES #1		BRADSHAW	0.9	NORTHERN NATURAL GAS
8106613	K80-0896	1509320496	108	MEEKER #1-A		PANOMA	2.5	PANHANDLE EASTERN PI
8106445	K 80-0886	1509320355	108	MILLER #1-A		PANOMA	9.5	PANHANDLE EASTERN PI
8106444	K 80-0887	1509320400	108	MILLER #2 (2-A)		PANOMA	15.3	COLORADO INTERSTATE
8106612	K80-0897	1509320556	108	MILLER #3-A		PANOMA	14.4	PANHANDLE EASTERN PI
8106611	K80-0898	1509300000	108	MODIE #2		HUGOTON	19.2	CITIES SERVICE GAS C
8106447	K 80-0884	1509320552	108	MYRTLE #1-A		PANOMA	13.4	PANHANDLE EASTERN PI
8106446	K-80-0885	1509320577	108	PEARL #1-A		PANOMA	5.4	PANHANDLE EASTERN PI
8106521	K-80-0905	1503500000	108	SHORE #3		ESTES	8.3	CITIES SERVICE GAS C
8106610	K80-0899	1507520115	108	THOMECZEK #1		BRADSHAW	10.1	NORTHERN NATURAL GAS
8106443	K 80-0888	1509320606	108	WANDA #1-A		PANOMA	2.3	COLORADO INTERSTATE

VOLUME 331 PAGE 006

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106609	K80-0900	1507520116	108		WILCOX #1	BRADSHAW	0.8	NORTHERN NATURAL GAS
8106593	K 80-0584	1507520336	103		WILCOX #2-A	PANOMA (COUNCIL GROVE)	35.0	PEOPLES NATURAL GAS
8106541	K-80-0889	1509320486	108		ZONGKER #1-A	PANOMA	11.2	PANHANDLE EASTERN PI
-W R MURFIN D/B/A MURFIN DRILLING CO					RECEIVED: 11/24/80 JA: KS			
8106606	K80-0737	1502320283	102		CULWELL #1-7 GAS UNIT	CHERRY CREEK	11.0	KANSAS-NEBRASKA NATU
8106544	K-80-0747	1502320117	102		HILT #1-14	CHERRY CREEK	12.0	KANSAS-NEBRASKA NATU
8106545	K-80-0746	1502320116	102		LAMPE #1-30 GAS UNIT	CHERRY CREEK	25.0	KANSAS-NEBRASKA NATU
8106459	K80-0755	1502320118	102		LOYD FARMS #1-32	CHERRY CREEK	8.0	PEOPLES NATURAL GAS
8106586	K 80-0732	1502320056	102		NEITZEL #2-28 GAS UNIT	CHERRY CREEK	24.0	PEOPLES NATURAL GAS
-WALLACE OIL & GAS INC					RECEIVED: 11/24/80 JA: KS			
8106518	K-80-0911	1507520316	103		#1 MCDONALD	KANSAS PANOMA	182.4	PEOPLES NATURAL GAS
-WESTERN DRILLING & EXPLORATION INC					RECEIVED: 11/24/80 JA: KS			
8106467	K80-0373	1509520812	108		#1 MARK		0.5	KANSAS GAS SUPPLY CO
-ZENITH DRILLING CORPORATION INC					RECEIVED: 11/24/80 JA: KS			
8106548	K-80-0864	1514520604	108		MECKFESSEL #1	GARFIELD SW	14.0	KANSAS-NEBRASKA GAS

OTHER PURCHASERS VOLUME NO 1331

8106473 FRANKLIN PIPELINE CO
8106492 FRANKLIN PIPELINE CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 29, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-38542 Filed 12-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. TA81-1-43-000]

Cities Service Gas Co., Proposed Changes in FERC Gas Tariff

December 8, 1980.

Take notice that Cities Service Gas Company (Cities Service) on November 21, 1980, tendered for filing Ninth Revised Sheet No. 6 to is FERC Gas Tariff, Original Volume No. 1. Cities Service states that pursuant to Article 23 of the General Terms and Conditions of such Tariff it proposes to increase its rates effective December 23, 1980, to reflect an increase in the GRI funding unit from 0.48 cents to 0.56 cents for the year 1981 as approved by the Commission's Opinion No. 96, issued September 30, 1980.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP79-76.

Any person desiring to be herd 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 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before *December 19, 1980.* 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-38482 Filed 12-11-80; 8:45 am]
BILLING CODE 6450-85-M

Office of Hearings and Appeals

Cases Filed Week of November 14 through November 21, 1980

During the week of November 14 through November 21, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy Washington, D.C. 20461.

Dated: December 9, 1980.

George B. Breznay,
Director, Office of Hearings and Appeals.
December 9, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 14 through Nov. 21, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 14, 1980	Edgington Oil Company, Inc., Washington, D.C.	BEE-1525	Price Exception. If granted: Edgington Oil Company, Inc. would receive an exception from the provisions of 10 C.F.R. § 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
Nov. 14, 1980	Pennzoil Producing Company, Houston, Texas	BXE-1526	Extension of relief granted in *Pennzoil Producing Co.*, BXE-1148 (July 23, 1980) (proposed decision). If granted: Pennzoil Producing Company would be permitted to sell at upper tier ceiling prices the crude oil produced from the McGraw-Stevens Waterflood Unit located in Tinsley Field, Mississippi.
Nov. 14, 1980	Pennzoil Producing Company, Houston, Texas	BXE-1527	Extension of relief granted in *Pennzoil Producing Co.*, 6 DOE ¶ 81,196 (1980). If granted: Pennzoil Producing Company would be permitted to continue to sell at market prices the crude oil produced from the Woodruff Sand Waterflood Unit located in Yazoo County, Mississippi.
Nov. 17, 1980	John M. Baines, Washington, D.C.	BFA-0523	Appeal of Information Request Denial. If granted: The October 15, 1980 Information Request Denial issued by the Office of Hearings and Appeals would be rescinded, and John M. Baines would receive access to certain DOE materials regarding contacts between the DOE and Southwestern Refining, Inc., Silver Eagle Refining Company, Inc., and Johnson Oil Company, Inc.
Nov. 17, 1980	City of Long Beach, California, Long Beach, California.	BXE-1529	Extension of relief granted in *City of Long Beach, California*, BXE-1149 (July 17, 1980) (proposed decision). If granted: City of Long Beach, California would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the Fault Block II Unit, located in the Wilmington Oil Field, Los Angeles County, California.
Nov. 17, 1980	Foster Associates, Inc., Washington D.C	BFA-0525	Appeal of Information Request Denial. If granted: The October 14, 1980 Information Request Denial issued by the DOE Office of Energy Data Operations would be rescinded, and Foster Associates, Inc. would receive access to certain DOE material.
Nov. 17, 1980	Ginsburg, Feldman, Weil & Bress, Washington, D.C.	BFA-0524	Appeal of Information Request Denial. If granted: The October 17, 1980 Information Request Denial issued by the DOE Office of Enforcement would be rescinded, and Ginsburg, Feldman, Weil & Bress would receive access to documents regarding the interpretation and application of the provisions of Section 212.93 of the DOE Price Regulations.
Nov. 17, 1980	Douglas L. Miller, Atlanta, Georgia	BMR-0075	Request for Modification/Rescission. If granted: The October 24, 1980 Decision and Order (Case No. BFA-0480) issued to Douglas L. Miller would be modified with respect to the release of certain DOE data.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Nov. 14 through Nov. 21, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 17, 1980	Office of Enforcement, Washington, D.C.	BFF-0009	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, in connection with the February 29, 1980 Consent Order issued to Beta Development Company.
Nov. 18, 1980	Larry David Hankin, Thornton, Colorado	BFA-0526	Appeal of Information Request Denial. If granted: Larry David Hankin would receive access to information concerning his Q clearance.
Nov. 18, 1980	James William Harrison, Winder, Georgia	BEE-1531	Request for Exception. If granted: James William Harrison would receive an exception from the provisions of 10 C.F.R. Part 211, Subpart F, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 18, 1980	Office of Special Counsel, Washington D.C.	BRD-0084	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with the Statement of Objections submitted by Marathon Oil Company in response to the July 23, 1980 Proposed Remedial Order issued to Marathon by the Office of Special Counsel.
Nov. 18, 1980	Oklahoma Refining Company/Mobil Oil Corporation, Washington, D.C.	BEJ-0160	Motion for Protective Order. If granted: Oklahoma Refining Company would enter into a protective Order with Mobil Oil Corporation regarding the exchange of proprietary information between the firms in connection with Oklahoma Refining's Application for Exception (Case No. BEE-0926).
Nov. 18, 1980	Somerset Refinery, Inc., Washington, D.C.	BEN-0077	Interim Order. If granted: Somerset Refinery, Inc. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-1500).
Nov. 18, 1980	Southern Fuel Company, Baltimore, Maryland	BEE-1530	Exception from the Reporting Requirements. If granted: Southern Fuel Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Nov. 19, 1980	Flying J, Inc., Brigham City, Utah	BEE-1534	Exception from the Entitlements Program. If granted: Flying J, Inc. would receive an exception from the provisions of 10 C.F.R. § 211.67 which would modify its entitlements purchase obligation.
Nov. 19, 1980	J. J. Stafford & Sons, Inc., Garland, North Carolina	BEE-1533	Exception from the Reporting Requirements. If granted: J. J. Stafford & Sons, Inc. would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Nov. 19, 1980	Mike Tappan, Denver, Colorado	BFA-0527	Appeal of Information Request Denial. If granted: The October 29, 1980 Information Request Denial issued by the Division of Freedom of Information and Privacy Acts Activities would be rescinded and Mike Tappan would receive a waiver of fees.
Nov. 20, 1980	Asamera Oil (U.S.) Inc., Washington, D.C.	BEN-1491	Interim Order. If granted: Asamera Oil (U.S.) Inc. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-1491).
Nov. 21, 1980	Golden Gate Petroleum Company, San Francisco, California.	BES-0117	Request for Stay. If granted: Golden Gate Petroleum Company would receive a stay of the November 5, 1980 Proposed Decision and Order (Case No. BEE-1336) issued to the firm pending a final determination on its Application for Exception.
Nov. 21, 1980	Hart County Energy and Conservation Coalition, Hartwell, Georgia.	BFA-0528	Appeal of Information Request Denial. If granted: Hart County Energy and Conservation Coalition would receive access to certain DOE materials.
Nov. 21, 1980	Oil-Tex Petroleum, Inc., San Antonio, Texas	BES-0119	Request for Stay. If granted: Oil-Tex Petroleum, Inc. would receive a stay of the crude oil refund deadline contained in 10 C.F.R. § 212.185(d).
Nov. 21, 1980	Refinery Associates, Inc., San Antonio, Texas	BES-0118	Request for Stay. If granted: Refinery Associates, Inc. would receive a stay of the crude oil refund deadline contained in 10 C.F.R. § 212.185(d).
Nov. 21, 1980	Sunland Oil, Delano, California	BEE-1537	Exception from the Reporting Requirements. If granted: Sunland Oil would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Nov. 21, 1980	Woolley Fuel Company, Maplewood, New Jersey	BEE-1538	Exception from the Reporting Requirements. If granted: Woolley Fuel Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[WEEK OF NOVEMBER 14 THROUGH NOVEMBER 21, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No. and date	State
Navy Oil Co., Inc.	BEE-1532, 11/14/80	Calif.
Riggle Oil Co.	BEE-1528, 11/14/80	Calif.
Eastside Marathon Service.	BEE-1535, 11/20/80	Ohio.
Westside Residents Association.	BEE-1536, 11/20/80	Calif.
West Virginia Turnpike Commission.	BEN-1239, 11/21/80	W. VA.

Notices of Objection Received

[Week of November 14 Through November 21, 1980]

Date	Name and location of applicant	Case No.
11/17/80	Kennedy Oil Co., Streator, IL	DEE-5783
11/18/80	Standard Oil Co., Chicago, IL	BEE-1303
11/19/80	Zitro Energy Consultants, Inc. Holtsville, NY.	DEE-2884
11/21/80	Golden Gate Petroleum Co., San Francisco, CA.	BEE-1336
11/21/80	Mallard Oil Co., Kinston, NC.	BEE-0757
11/21/80	Raymond Oil Co., Pittsburg, PA	BEE-1192

[FR Doc. 80-38640 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 3 through November 7, 1980

During the week of November 3 through November 7, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office and Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Gold, Louis, Washington, D.C., BFA-0505, freedom of information

Louis Gold filed an Appeal from a determination issued by the Deputy Director of the Office of Procurement Operations, that responded to a request for information which Mr. Gold had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the request should be

remanded to the Deputy Director for a search for certain responsive documents.

Idaho Statesman, Boise, Idaho, BFA-0489, freedom of information

The Idaho Stateman filed an Appeal from a denial by the Manager of the Idaho Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the subject document was properly withheld under Exemption 5. An important finding was that the Manager properly exercised his discretion in releasing, the document to the State of Idaho for comments, and that granting access to the State does not result in the waiver of Exemption 5 such that access must be granted to all persons.

Lenzner, Terry F., Washington, D.C., BFA-0488, freedom of information

Terry F. Lanzner filed an Appeal from a partial denial by the Director of the Division of Freedom of Information and Privacy Acts Activities and the Deputy Assistant Secretary for International Resources of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain material which was initially withheld under Exemption 5 should be released to the public. The DOE also determined that other classified documents should be reviewed in a subsequent proceeding in order to avoid unnecessary delays.

Marathon Oil Company, Washington, D.C., BEA-0088 through BEA-90, BEA-0121 through BEA-0123, BEA-0165 through BEA-0167, motor gasoline

On December 5 and 31, 1979 and February 4, 1980, Marathon Oil Company filed Appeals from three Orders for the Redirection of Product that the Region IV Office of Petroleum Operations of the Economic Regulatory Administration issued to the firm between October 1979 and January 1980, pursuant to the provisions of 10 C.F.R. § 211.107(c). Those Orders directed Marathon to supply a total of 597,051 gallons of motor gasoline for the months of October, November, and December to three Florida jobbers: Treasure Coast Oil, Inc., B. W. Simpkins Oil, Inc., and Palm Beach Oil, Inc. In considering the firm's Appeal, the DOE determined although the Orders established a sufficient factual basis to support ERA Region IV's conclusions concerning the availability of surplus product in the jobbers' market area and the ability of the jobbers to locate alternative sources of supply inside and outside their market area, the Orders failed to consider the three jobbers as a single firm in assessing their ability to solve their supply problems. The DOE therefore concluded that the Redirection Orders should be remanded to ERA Region IV for a further determination as to the practicability of the jobbers' parent firm going outside of its market area to secure additional supplies of motor gasoline for its subsidiaries.

Marathon Oil Company, Murphy Oil Company, Washington, D.C., DEA-0478, DEA-0479, motor gasoline

Murphy Oil Company and Marathon Oil Company filed Appeals from Temporary Assignment Orders that were issued to the firms by the Economic Regulatory Administration on June 6, 1979. The Orders directed Marathon and Murphy each to supply U.S. Oil Company with 350,000 gallons of motor gasoline during the period June 6 through July 14, 1979. In conisidering the the Appeals, the DOE found the contrary to the appellants' contentions, the firms were provided with adequate notice and opportunity to comment on their selection as new suppliers to U.S. Oil. The DOE also rejected the appellant's contention that the June 6 Orders were invalid because they failed to conform to the requirements of Section 205.39(a) of the DOE's procedural regulations. Accordingly, the Murphy and Marathon Appeals were denied.

Shaw, Stephen M., La Jolla, California, BFA-0492, freedom of information

Stephen M. Shaw filed an Appeal from a denial by the Office of Procurement Management of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found the contract and related documents requested were not part of the records of the Department of Energy, and therefore the Appeal was denied.

Remedial Orders

Korpan's Landing, Fox Lake, Illinois, BRO-1242, motor gasoline

Korpan's Landing objected to a Proposed Remedial Order that the Central Enforcement District of the DOE issued to the firm on June 21, 1980. In the proposed Remedial Order, the Central District found that during the period August 1, 1979 through the October 31, 1979, the firm had charged prices for motor gasoline in excess of those permitted under the provisions of 10 C.F.R. § 212. The Central District ordered the firm to refund the amount of the overcharges, plus interest, to its motor gasoline customers. The DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order.

McMinnville Gas Co., McMinnville, Oregon, DRO-0088, propane

McMinnville Gas Co. objected to a Proposed Remedial Order that the Region X Office of Enforcement of the Economic Regulatory Administration (ERA) issued to the firm on June 9, 1978. In the Proposed Remedial Order, the ERA found that during the period November 1, 1973 through November 30, 1975, McMinnville had failed to maintain the required customary pricing differentials between its classes of purchasers and had sold propane at prices which exceeded its maximum lawful selling prices pursuant to 10 CFR § 212.93. In its objection, McMinnville argued that it had already refunded through price reductions the full amount of the overcharges. The DOE rejected the firm's argument and concluded that the Proposed Remedial Order should be issued as a final Order.

Petition for Special Redress

Getty Oil Company, Los Angeles, California, DSG-0034, motor gasoline

On October 4, 1978, Getty Oil Company filed a Petition for Special Redress or Other Relief in which it requested that it be permitted to upwardly adjust its gasoline cost bank in order to offset the revenue which it had lost as a result of its compliance with a DOE Order that was subsequently rescinded. In considering the Petition, the DOE determined that because the firm lost revenue as a result of its compliance with a DOE Order that was subsequently rescinded, restitution was appropriate. Getty Oil Company's Petition for Special Redress or Other Relief was therefore granted.

Request for Modification and/or Rescission

Kentucky West Virginia Gas Company, Pittsburgh, Pennsylvania, DMR-0014, crude oil

Kentucky West Virginia Gas Company (Kentucky) filed an Application for Modification which, if granted, would result in the modification of a Decision and Order issued to the firm by the Federal Energy Administration on October 7, 1975. *Kentucky West Virginia Gas Co.*, 2 FEA ¶ 80,699 (1975). In rejecting Kentucky's petition, the DOE noted that the firm had failed to undermine the validity of the conclusions reached in the October 7 Decision and Order. The DOE also noted that Kentucky's application failed to satisfy the procedural criteria set forth in 10 CFR § 205.135(b) that govern the consideration of requests for modification. Finally, the DOE noted that no statutory or regulatory provision prohibits Kentucky from pursuing the relief it seeks via the exceptions process.

Requests for Exception

Airport 66 Service, Salt Lake City, Utah, BEO-0791, motor gasoline

Airport 66 Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found, after considering and ultimately rejecting objections raised by Airport 66 Service's prime base period supplier, that exception relief was necessary to alleviate a financial hardship that Airport 66 Service was experiencing as a result of the DOE regulations. Accordingly, exception relief was granted.

Beacon Oil Company, Lenawee County, Michigan, DEE-7635, motor gasoline

The Beacon Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to demonstrate that it would be adversely affected to a significant degree in the absence of exception relief. Accordingly, exception relief was denied.

Blackwell Oil Company, Idaho Springs, Colorado, DEE-5887, motor gasoline

Blackwell Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to

demonstrate that in the absence of exception relief it would be adversely affected to a significant degree. The DOE also found that the firm maintained a profit margin well below the maximum allowable margin and that therefore it appeared that the firm could increase its margin without loss of its competitive position. Accordingly, exception relief was denied.

Boardman Petroleum, Augusta, Georgia, DEE-2488, motor gasoline.

Boardman Petroleum filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to establish that anomalous event during a portion of the updated base period had caused its allocation to be unrepresentative of its normal and customary business activity. The DOE further found that, based upon data in the record, the firm is not currently experiencing a financial hardship. Accordingly, exception relief was denied. An important finding in the Decision and Order is that the firm's inability to avail itself of its supplier's offer to provide volumes of gasoline in excess of its base period allocation is not an anomaly that would provide a basis for exception relief.

Craft Petroleum Company, Inc., Jackson, Mississippi, BEE-1035, crude oil

Craft Petroleum Company, Inc. (Craft) filed an Application for Exception from the provisions of 10 C.F.R. Part 212, Subpart D. In considering the exception request for Craft's J. W. Richardson No. 1 Lease, the DOE determined that the firm will be able to operate that lease on a profitable basis even if the crude oil produced from the property is sold at the applicable upper ceiling price and market price levels pursuant to the provisions of 10 C.F.R. § 212.74. Accordingly, the DOE concluded that exception relief should be denied.

Kerr-McGee Corp., Oklahoma City, Oklahoma, DEE-2244, motor gasoline

Kerr-McGee Corporation filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm requested an increase in the quantity of motor gasoline available to its wholly-owned subsidiary, Triangle Refineries, Inc., for the months of March through September 1979. In considering the request, the DOE found that exception relief was necessary to alleviate a serious hardship and gross inequity experienced by Triangle and its customers in March 1979. Accordingly, exception relief was granted confirming the temporary stay decision issued to Kerr-McGee on March 8, 1979, but was denied for the months of April through September 1979. The important issues discussed in the Decision and Order are (i) the applicant's failure to demonstrate that Triangle and its customers were suffering unique financial and operating difficulties during the April through September 1979 period, and (ii) Triangle's ability to obtain spot market gasoline that could increase both its allocation fraction and inventory levels.

Lilly Flagg Exxon, Huntsville, Tennessee, BEO-0040, motor gasoline

Lilly Flagg Exxon filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship or unfair distribution of burdens as a result of the DOE regulations. Accordingly, exception relief was denied.

Martin County, Florida, Stuart, Florida, BEE-1025, motor gasoline

Martin County, Florida filed an Application for Exception on behalf of all motor gasoline retailers located in the County. In that Application the County requested that those retailers receive an increased allocation of motor gasoline. The DOE found that a significant increase in the tourist population in the County had occurred since February 1979. The DOE further found that this increased tourism resulted in inadequate supplies of gasoline in the County during winter months. The DOE therefore granted an increase of 8.5% in the adjusted base period allocations of all motor gasoline retailers in the County for the period December 1980 through April 1981.

McBay Oil & Gas Company, Dallas, Texas, BEE-1126, crude oil

McBay Oil & Gas Company (McBay) filed an Application for Exception from the provisions of 10 C.F.R. Part 212, Subpart L. Exception relief was granted to permit McBay to certify up to 100,000 barrels of crude oil which it reclaims, excluding the marketable crude oil used in the blending operations, at its reclamation plant in Grapeland, Texas, as stripper well crude oil and sell the reclaimed crude oil at market price levels during the period May 22, 1980 through June 30, 1981.

Natchez Refining, Inc., Washington, D.C. BEE-1415, BEL-1415, crude oil

Natchez Refining, Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 211.67 in which the firm sought the issuance of entitlements for the crude oil which it intends to purchase to establish an inventory for its new refinery. In considering the request, the DOE found that the firm's submissions were premature since Natchez had failed to demonstrate that it had purchased the crude oil that will constitute the permanent inventory for its refinery. Accordingly, the Natchez applications were dismissed.

North Side Center, Hamilton Montana, DEE-7919, motor gasoline

North Side Center filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought the assignment of a lower-priced supplier of motor gasoline. In considering the request, the DOE was unable to conclude that the firm's present supplier/purchaser relationship is causing it to suffer serious financial and operating difficulties that threaten its continued existence as a viable independent marketer. Accordingly, the firm's request was denied.

Occidental Chemical Co., White Springs, Florida, BEO-0642, motor gasoline

Occidental Chemical Co. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable Occidental to satisfy the increased demand for motor gasoline which it experienced when it expanded its facilities to produce a new product used as an component in agricultural fertilizers. In addition, the DOE found that exception relief was necessary to continue the operation of Occidental's van pool program which was deemed to be in the public interest. Accordingly, exception relief was granted.

Palm Beach Gardens Amoco, Palm Beach, Florida, BEO-0130, motor gasoline

Palm Beach Gardens Amoco filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm maintained a sufficient level of profitability at its current base period allocation to enable it to operate as a viable entity. Accordingly, exception relief was denied.

Pittsburg & Midway Coal Mining Company, Denver, Colorado, BEO-0130, BEO-0131, motor gasoline

The Pittsburg & Midway Coal Mining Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline in order to permit the firm to comply in its coal mining operations with the provisions of federal law concerning surface mining. In considering the request, the DOE found that exception relief was necessary to relieve the gross inequity which the firm was experiencing as a result of the motor gasoline allocation regulations. Accordingly, exception relief was granted.

Pro Tec, Inc., Austin, Texas, BEE-1506, propane

Pro Tec, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Parts 211 and 212, in which the firm sought price and allocation relief that would permit it to install Propane Extraction Units (PEUs), a new type of gas plant. In considering the request, the DOE found that PEUs had the potential of reducing the cost of propane to consumers and the energy consumed in its transport, by reducing the distance it had to be transported from the gas plants to its markets. The DOE further found that the installation of PEUs was not feasible in the absence of exception relief from certain price and allocation regulations. Accordingly, exception relief was granted.

R & W Motor Sales, Taunton, Massachusetts, DEE-6770, motor gasoline

R & W Motor Sales filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm requested that its base period allocation of motor gasoline be based on its motor gasoline purchases during 1973 and 1974. In considering the request, the DOE found that an increase in the firm's base period allocation was not appropriate.

However, the DOE further found that to ensure the firm's continued viability and to enable it to retain its clientele, exception relief should be granted that would permit R & W Motor Sales to increase its motor gasoline prices above the maximum legal limit. Accordingly, exception relief was granted.

Schneider's Automotive Repair, Simi Valley, California, DEE-4908, motor gasoline

Schneider's Automotive Epair (Schneider's) filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Schneider had significantly altered the nature of its business operations and that the increases in its sales of motor gasoline during February 1979 would have continued but for the updating of the base period. The DOE also found that the firm was experiencing a serious financial hardship under the allocation levels established for the firm by the November 1977 through October 1978 base period. Accordingly, exception relief was granted.

Shelby County Board of Education, Shelbyville, Kentucky, BEO-0256, motor gasoline

The Shelby County Board of Education filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not demonstrated that the operation of its school bus program would be impaired if it did not receive an increase in its assured supply of motor gasoline. Accordingly, exception relief was denied.

State of New Mexico, Santa Fe, New Mexico, BEE-0944, crude oil

The State of New Mexico filed an Application for Exception from the provisions of 10 C.F.R. § 211.63 in which the firm sought relief that would permit the state to allocate its royalty crude oil to purchasers of its own choosing. The state alleged that it was losing possible economic benefits because most of the crude oil produced within the state is refined outside of New Mexico. In considering the request the DOE found that New Mexico was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of DOE regulations. The DOE noted that nearly all of the royalty interest crude oil that the state sought to reallocate was already being refined within the state pursuant to contracts between the refiners and the state. The DOE also found that the refiners that were processing this crude oil had made substantial investments in reliance upon continued receipt of this crude oil, and that they could experience hardships if New Mexico were permitted to sell it to other refiners. Accordingly, exception relief was denied.

Ted Harrison Oil Co., Inc., Virginia, Illinois, DEE-6606, motor gasoline

Ted Harrison Oil Co., Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Harrison had made a substantial capital investment in the outlet but that the firm was not precluded from realizing the benefits of that investment. Accordingly, exception relief was denied.

T.O.C. Inc., Indianapolis, Indiana, BEE-0521, gasohol

T.O.C. Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. In considering the request, the DOE found that exception relief was necessary to permit the firm to expand its gasohol marketing program. Accordingly, exception relief was granted.

Request for Temporary Exception

Farmers Union Central Exchange, Inc., Washington, D.C., BEL-1340, crude oil

Farmers Union Central Exchange, Inc. filed an Application for Temporary Exception from the provisions of the Entitlement Program to eliminate a post-entitlements crude oil cost disparity (10 C.F.R. § 211.67). In considering the Application, the DOE determined that because the cost disparity that formed the basis for the applicant's request no longer exists, temporary eceptionrelief was not warranted. The firm's temporary exception request was therefore denied.

Request for Stay

Farmers Union Central Exchange, Inc., St. Paul, Minnesota, BRS-0113, crude oil

Farmers Union Central Echange, Inc. (Cenex) filed an Application for Stay in which it requested that portions of an enforcement proceeding against the firm be stayed pending the issuance of final Decisions and Orders by the Office of Hearings and Appeals in two other enforcement proceedings involving similar issues. In considering the Application, the DOE determined that Cenex had an independent obligation to comply with DOE regulations and therefore could not rely upon other firms' interpretations of the regulations. In addition, the DOE determined that any adverse publicity which Cenex might experience as a result of the enforcement proceeding did not constitute sufficient injury to justify the granting of stay relief. Cenex's stay request was therefore denied.

Motion for Discovery

Demartin Truck Lines, Inc., Bakersfield, California, BED-1420, propane/butane

DeMartin Truck Lines, Inc., filed a Motion for Discovery in which the firm requested that certain factual issues be resolved under procedures set forth in 10 C.F.R. § 205.64(a). In considering the motion, the DOE found that the approval of the discovery motion would not assist in the resolution of any disputed issues in the exception proceeding. Accordingly, the Motion for Discovery was denied.

Interlocutory Order

The Crude Company; Ernest Allerkamp; Summit Transportation Co.; J.D. Streett & Co., Inc.; Site Oil Company; Washington, D.C., BRZ-0058, BRZ-0059, BRZ-0060, BRZ-0061, BRZ-0062

The Department of Energy issued an Interlocutory Order which determined that the parties in The Crude Company (BEE-1015), Ernest E. Allerkamp (BRO-0020), Summit Transporation Company (BEE-0991), J.D. Streett & Co., Inc. (BRS-0990) and Site Oil Company (BRS-0111 and BRT-0111) and interested persons should submit additional memoranda by December 4, 1980 on the question of a possible violation of the Constitutional rights of the petitioners or their employees, and that oral argument should be held in Room 8011, 2000 M Street, N.W., Washington, D.C. at 10:00 A.M., December 8, 1980.

Supplemental Order

Alamo Expressway Service, San Antonio, Texas, BEX-0126; Black's Shell Service, Spartenberg, South Carolina, BEX-0127; Rapid Oil Service, Roberts, Wisconsin, BEX-0128; motor gasoline.

On October 22, 1979, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting an extension of exception relief to the above noted firms that had previously been found to meet the criteria set forth in *Leo Anger, Inc.*, 4 DOE ¶ 81,037 (1979). The October 22 Decision and Order required that the firms file a financial statement with the Office of Hearings and Appeals by July 31, 1980 if they wished to continue to receive exception relief after that date. Because the above noted firms did not submit this information, the relief extended to them was rescinded.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Echo Bay Resort, BEN-1315, Wash., DC
Energy Coop., Inc., BEN-0508, Wash., DC
Energy Dev. Board of Mercer County, BEN-1121, Hazen, ND

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name	Case No.	Location
Asamera Oil (US), Inc.	BEJ-0147	Wash., DC.
Amoco Oil Co	BEJ-0148	
Cities Service Co	BEJ-0149	
Kerr-McGee Corp	BEJ-0150	
Little America Ref	BEJ-0151	
Mobil Oil Corp	BEJ-0152	
Pester Pet. Inc		
Pennzoil Co	BEJ-0130	Wash., DC.
Stand. Oil of OH		Cleveland, OH

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company name	Case No.	Location
Auto Row Texaco	DXE-8233	San Jose, CA.
Wherrell Oil Co., Inc.	DEE-6498	Okeechobee, FL.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company name	Case No.	Location
Bob's Marathon—NORA.	BEO-0760	Indianapolis, IN.
Canfields of Calif	BEO-0491	Meadows Vista, CA.
Diamond Gas & Fuel Co.	DEE-2248	Englewood, CO.
Henry's Gulf	BOE-0103	Houston, TX.
Lincoln Serv. Center	BEO-0830	Irwin, PA.
T. C. Treakle & John A. Christopher, Inc.	DEE-5393	Irvington, VA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:
Name and Case No.
Butch Taylor's Exxon Service, DEE-7372
Energy Action Ed. Foundation, BFA-0491
Gulf Oil Corporation, BES-0004; BES-0029
Johnnie's Arco, DEE-6174
Jones Oil Co., Inc., DEE-2493
Louis Cress, BSG-0023
Necchi & Campiglio, BEE-1515
Pam Oil Co., DEE-6046
Potomac Oil, Inc., BEE-0794
Pro Tec, Inc., DSG-0026
State of Oregon, BMR-0032
Tresler Oil Co., BEE-0781
Union Oil Co. of California, BER-0069
Van's Grocery, DEE-7038

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

December 9, 1980.

George B. Breznay,
Director, Office of Hearings and Appeals.

[FR Doc. 80-38643 Filed 12-11-80; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Intent To Develop a Power Marketing Plan Sacramento Area Office

AGENCY: Western Area Power Administration, U.S.C. Department of Energy.

ACTION: Notice of intent to develop a power marketing plan, including environmental assessment, for the Sacramento Area Office.

SUMMARY: The Western Area Power Administration (Western) intends to develop a power marketing plan dealing with the power resources marketed by Western's Sacramento Area Office.

The Sacramento Area Office primarily markets the Federal hydroelectric power developed by the Central Valley Project. Under a recent settlement of a lawsuit entitled *The City of Santa Clara v. Duncan, et al.*, Civil Action No. C-75-1574SC, Western has the option of marketing 102 MW of additional power which includes 46 MW of power allocated to, but currently unused by, the Westlands Irrigation District. It is anticipated that the power marketing plan will also analyze and develop the procedures for the treatment of approximately 642 MW of power currently sold under contracts which will expire before 1995.

The draft plan will be made available at a public information forum to be held on January 14, 1981, in Sacramento, California. Written comments will be due by March 6, 1981. An oral comment forum regarding the draft plan will be held on March 3, 1981.

Additional public information forums and comment forums will be held by Western in 1981. Advance notice of all such forums will be published in the Federal Register. Our target completion date for the plan is October 1981.

DATES: A public information forum will be held on January 14, 1981, beginning at 9:30 a.m. in the Mariposa/Sonora Room at the Holiday Inn—Holidome, 5321 Date Avenue, in Sacramento, California.

A public comment forum will be held on March 3, 1981, beginning at 9:30 a.m. in the Sutter Mill Room, Holiday Inn—Holidome, 5321 Date Avenue, in Sacramento, California.

Written comments are due by March 6, 1981.

ADDRESS: For further information concerning the public information forum contact: Mr. David G. Coleman, Area Manager, Western Area Power Administration, U.S. Department of Energy, 2800 Cottage Way, Sacramento, CA 95825; (916) 484-4251.

Written comments and requests to speak at the public comment forum should also be sent to the above address.

SUPPLEMENTARY INFORMATION: Western was established on December 21, 1977, under the Department of Energy Organization Act of 1977 (DOE Act). The DOE Act transferred to the Secretary of Energy all the functions of the Secretary of the Interior with respect to, among other things, the power marketing functions of the Bureau of Reclamation (now the Water and Power Resources Service) including the construction, operation, and maintenance of transmission lines and attendant facilities. Western was established to administer those functions transferred from the former Bureau of Reclamation.

Western's Sacramento Area Office sells power generated at 10 hydroelectric powerplants of the Central Valley Project and power purchased from a coal-fired powerplant located in Centralia, Washington. Through an arrangement with the Pacific Gas & Electric Company, Western currently provides firm power to 77 preference customers located in northern and central California.

The maximum simultaneous customer demand which is sold by Western under contracts with the preference customers in 1050 MW. However, under a recent settlement agreement between the various parties to the lawsuit entitled The City of Santa Clara v. Duncan, et al., Western has the option of raising the maximum simultaneous demand to 1152 MW. Thus, Western has the option of allocating an additional 102 MW of power. In addition, a number of Western's contracts will expire before 1995. The amount of power sold under these contracts is approximately 642 MW.

The purpose of developing the power marketing plan is to develop the procedures for the allocation or reallocation (if any) of the 102 MW which is potentially available pursuant to the settlement and the 642 MW which is potentially available due to expiring contracts. To initially prepare for the developing of its marketing plan to solicit suggestions and comments from customers and interested parties, Western held two informal public information forums in Sacramento, the first on July 11, 1980, and the second on September 15, 1980. On November 25, 1980, an informal public comment forum

was held in Sacramento to allow further customer and interested party comment.

Western plans to hold a series of three formal public information forums, each of which will be followed with a formal public comment forum so that Western can receive oral comment. Written comments will be received for at least 30 days following each public information forum.

The first formal public information forum which is announced by this Federal Register notice will be held on January 14, 1981. Written comments will be due by March 6, 1981. A formal public comment forum will be held on March 3, 1981. Advance notice will be published in the Federal Register of all subsequent public information and comment forums held by Western with regard to this marketing plan.

At the public information forum, Western will present a draft marketing plan. Staff members will make presentations to explain the draft plan and the basis therefor. If there is time, questions from interested persons will be allowed. If a question cannot be answered by the staff present, it will be considered and addressed by Western in the future development of the plan or by making relevant documents available for inspection or copying. The public information forum will be transcribed. Copies of the transcript will be available from the transcription service.

The public comment forum to be held on March 3, 1981, will be nonadjudicatory in nature. Persons wishing to make comments should make a request to do so at least 15 days before the date of the forum. Requests may be made by letter or telephone at the address mentioned above. The Administrator will appoint a forum chairperson. At the start of the forum, the chairperson shall briefly explain the procedures and rules. Commentators having questions regarding the marketing plan shall state them for the record and Western will consider each comment carefully in the future development of the plan. The chairperson will allow interested parties to comment who have not made a request to speak, as time permits during the forum. The comment forum will be transcribed. Copies of the transcript will be available from the transcription service.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the power marketing plan are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, California 95825, (916) 484-4251.

Issued at Golden, Colorado, December 5, 1980.

William H. Clagett,

[FR Doc. 80-38557 Filed 12-11-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL 1700-8]

Availability of Environmental Impact Statements

Agency: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

Purpose: This notice lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the council on environmental quality's regulations (40 CFR Part 1506.9).

Period Covered: This notice includes EIS's FILED DURING THE WEEK OF December 1, 1980 to December 5, 1980.

Review Periods: The 45-day review period for draft EIS's listed in this notice is calculated from December 12, 1980 and will end on January 26, 1981. The 30-day review period for final EIS's as calculated from December 12, 1980 will end on January 12, 1981.

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 source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558-8270.

Summary of Notices: This notice sets forth a list of EIS's filed with EPA during the week of December 1, 1980 to December 5, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

For Further Information Contact: Kathi L. Wilson, Office of Environmental Review, Environmental Protection agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

Dated: December 9, 1980.

William N. Hedeman, Jr.

Director, Office of Environmental Review (A-104)

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental quality, Office of the Secretary, U.S. Department of Agruculture, Room 412-A Admin. Building, Washington, D.C. 20250 (202) 47-3965.

FOREST SERVICE

Final

BEARTOOTH PLATEAU, CUSTER, GALLATIN, SHOSHONE NFS: Park County, Wyoming; Carbon and Park Counties, Montana, December 2: Proposed is an interum management plan for the Beartooth Plateau within the Custer, Gallatin and Shoshone National Forests in Park County, Wyoming and Carbon and Park Counties, Montana. The Plan Considers: (1) Timber production, (2) Cattle and sheep forage, (3) Increased Recreation, (4) The addition of 1,057 acres for addition to the North Absaroka Wilderness, and (5) The addition of 36,750 acres of the Absaroka-Beartooth Wilderness. The alternatives consider no action, continuance of current management with various options, and a mix of land uses and commodity outputs. (USDA-FS-R2-FES-(ADM)-FY-76-11), comments made by: AHP, EPA, FERC, COE, USDA, DOI, State and local agencies. (EIS order No. 800910).

EXTENSION: Alpine Lakes Area Land Management Plan, published FR September 19, 1980—review extended from November 10, 1980 to December 10, 1980. (No. 800694).

Soil Conservation Service

Final

ATTOYAC BAYOU WATERSHED FLOOD PREVENTION: Several counties in texas; December 1: Proposed is a watershed protection and flood prevention plan for Attoyac Bayou in Nacogdoches, Rusk, Shelby and San Augustine Counties, Texas. The watershed encompasses an area of 213,440 acres. The plan would provide: (1) accelerated technical assistance for application of land treatment, (2) installation of 13 floodwater retarding structures and (3) One multiple-purpose structure with basic facilities for water-based recreation. Four alternatives are considered. Comments made by: EPA, COE, DOI, DOC, HEW, FERC, AHP, USDA, State Agencies and Individuals. (EIS order No. 800909)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, 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.

Draft

GALLIPOLIS LOCKS AND DAM REPLACEMENT, OHIO RIVER: Gallia

County, Ohio; Mason County, West Virginia, December 5: Proposed is the replacement of the Gallipolis Locks and Dam on the Ohio River in Gallia County, Ohio and Mason County, West Virginia. The preferred alternative would involve the construction of a 1200 X 100 foot lock and 600 X 100 foot lock, both in a bypass canal, and major rehabilitation of the dam. Four alternative plans are considered. (Huntington District) (EIS Order No. 800921).

Final

KAKE SMALL BOAT HARBOR NAVIGATION IMPROVEMENT: Alaska, December 3; Proposed are navigation improvements for the Kake Small Boat Harbor on Kupreanof Island, Alaska. Three alternative plans are considered. Plan A would develop an 8.6 acre moorage basin, construct two rubble mound breakwaters and create a 2 acre staging area. Plan B would consist of the mooring basin and staging area and would also include the use of a composite rubble mound/sheet pile breakwater system. Plan C would develop a 9 acre moorage basin, a 2 acre staging area and a single 1,100 foot long breakwater at Portage Cove. The cooperating agency is DOI. (Alaska District). Comments made by: EPA, DOI, DOC, USDA, AHP, and Stage agencies. (EIS order No. 800914)

Final

MOBILE BAY EXPLORATORY/ APPRAISAL HYDROCARBON WELLS: Alabama, December 4: Proposed is the issuance of a permit for the drilling of four exploratory/appraisal Hydrocarbon Wells in Mobile Bay, Alabama. The alternatives consider: (1) Issue permit with conditions; (2) Modifications of drill sites; (3) Minimize number of sites; (4) Drill fewer straight wells; (5) Alternate types of drilling equipment, service areas, spill clean-up plans, and evacuation plans; and (6) Deny permit. (Mobile District), Comments made by: EPA, DOI, DOC, DOT, USDA, HHS, and State agencies, groups and individuals. (EIS Order No. 800919).

NOVATA CENTER DEVELOPMENT, PERMIT: Marin County, California, December 3: Proposed is the issuance of a permit for the filling of 35 acres of historic wetlands and 4 acres of existing brackish marsh for the development of the Novato Center in Marin County, California. A portion of the 39 acres to be filled and an upland portion are proposed as the site for a 69 acre regional shopping center. No development plans have been submitted for the remainder of the area proposed to be filled. The alternatives considered are: (1) No project, (2) Reduced project, (3) Development in accordance with city zoning, and (4) An alternate project site at Hamilton AFB (San Francisco District). Comments made by: EPA, DOC, USDA, DOI, DOT, and State and local agencies, groups, individuals, and businesses. (EIS Order No. 800912).

WEST BEACH RESORT DEVELOPMENT: Honolulu County, Hawaii, December 5: Proposed is the issuance of a permit for the development of the West Beach Resort in Honolulu County, Oahu Island Hawaii. The resort may include a maxium of 1680 residential units, 7520 hotel/condominium units, a 35-acre marina with a capacity of 700 berths, a series of beach lagoons fronting the resort hotels, a tourist recreational-commercial center, an elementary school, a park, a shopping center and other support and recreational facilities. The alternatives considered include: (1) Reducing the size and scope of the development, (2) No action, and (3) Denial of permits. The cooperating agency is the State of Hawaii. (Honolulu District). Comments made by: HUD, DOT, DOI, USDA, USN, State and local agencies, groups and businesses (EIS Order No. 800934).

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Kenneth Halleran, Chief of the Environmental Office Headquarters DAEN-ZCE, Office of The Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310. (202) 694-4269.

Draft

AIRCRAFT DEPOT MAINTENANCE FUNCTION, CONSOLIDATION: York County, Pennsylvania; San Patricio County, Texas; December 5: Proposed is the consolidation of the Army's aircraft depot maintenance mission and function. The preferred alternative would involve realignment of the mission except air delivery equipment, from the New Cumberland Army Depot in Franklin Township, York County, Pennsylvania to the Corpus Christi Army Depot in the city of Corpus Christi, San Patricio County, Texas. The cooperating agencies are the Army Forces Command and the Nuclear Regulatory Commission. (EIS Order No. 800928).

Draft

FT. INDIANTOWN GAP TO FT. MEADE REALIGNMENT: Lebanon and Dauphin Counties, Pennsylvania; Anne Arundel County, Maryland; December 5: Proposed is the transfer of specified functions from Fort Indiantown Gap located in Lebanon and Dauphin counties, Pennsylvania to Fort Meade located in Anne Arundel County, Maryland. The alternatives considered are: (1) Terminate Army occupancy return to State control, (2) Reduce to semi-active status as a sub-installation to Fort Meade, and (3) Maintain status quo. The cooperating agencies are the U.S. Army Forces Command and the U.S. Material Development (EIS Order No. 800929).

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585. (202) 252-4600

Bonneville Power Administration

Final

BPA 1981 FY PROGRAM, ID/MT/OR: Programmatic Idaho, Montana, Oregon, December 4: Proposed is the BPA 1981 FY construction and maintenance program which would involve the states of Idaho, Montana, and Oregon. The program would involve: (1) Construction of system additions and modifications including 303-326 miles of new 500 kv transmission lines, (2) Placement of 131 miles of upgraded existing lines, (3) six new substations, and (4) facility additions at 7 to 8 existing substations. Various options are considered for construction, maintenance, and right-of-way management alternatives. (DOE/EIS-0060) Comments made by: USDA, DOI, HEW, HUD, EPA, and State and local agencies, groups, individuals and businesses. (EIS Order No. 800923).

ENVIRONMENTAL PROTECTION AGENCY

Draft

Contact: Dick Keppler, acting Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 00203. (617) 223-4635.

SOUTH ESSEX SEWERAGE DISTRICT RELIEF INTERCEPTOR: Essex County, Massachusetts; December 5: Proposed is the awarding of a grant for the placement of Relief Interceptor Sewers within the towns of Danvers and Beverly, Essex County, Massachusetts. The preferred alternative involves: (1) The combination of a force main paralleling the existing interceptor from the Danvers Pumping Station to Cresent Avenue, (2) A tunnel under city streets from Cresent Avenue to the Beverly Pump Station, and (3) Relief force main across Beverly Harbor to Salem Neck. A total of ten alternatives are considered. (EIS order No. 800926).

Final

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711. (919) 541-2777.

STATE UNDERGROUND INJECTION CONTROL PROGRAM; December 1: The proposed action prescribes a new set of regulations which sets minimal standards for State programs to prevent underground contaminaiton of water supplies. The regulations have been issued in conformance with the requirements of P.L. 93-523 (The Safe Drinking Water Act), which is designed to minimize or prevent threats to public health from underground drinking water sources contaminated by man's activities. Comments made by: DOI, DOE, DOC, State and local agencies, groups, individuals and businesses. (EIS order No. 800913).

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) 357-8228, Special notation.

Draft Supplement

PURPA—INDUCED GEOTHERMAL DEVELOPMENT (DS-1): Regulatory, December 5: This statement supplements Draft EIS, No. 800467 filed 6-13-80 pertaining to small power production and cogeneration facilities-qualifying status/rates and exemptions under the Public Utilities Regulatory Policy Act. This supplement analyzes effects of geothermal development in the Western United States projected as the result of additional rulemaking. (EIS order No. 800925).

WAIVER: The review period for the above EIS may be waived pending approval by CEQ. If approved, the review period would

be shortened to 30 days and terminate on January 12, 1980. (No. 800925).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Envirnomental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6300.

Draft

VILLAGE NINE SUBDIVISION, MORTGAGE INSURANCE: Mesa County, Colorado, December 4: Proposed is the issuance of HUD home mortgage insurance for the village nine subdivision housing development in Mesa County, Colorado. The development would encompass 160 acres and contain 831 single and multifamily dwelling units. The subdivision would also contain a commercial area for neighborhood businesses, parks and open spaces. (HUD-RO8-EIS-81-IIID) (EIS Order No. 800924)

GRANTLAND HOUSING DEVELOPMENT, MORTGAGE INSURANCE: Missoula County, Montana, December 5: Proposed is the issuance of HUD home mortgage insurance for the Grantland Housing Development in Missoula County, Montana. The subdivision would encompass 3,600 acres and when completed will consist of 2,200 single and multi-family dwelling units. The development would also contain commercial, school, park and open space sites. (HUD-RO8-EIS-81-IID) (EIS ORDER No. 800930).

Final

DOGWOOD PARK PHASE II SUBDIVISION: Bossier County, Louisiana, December 3: Proposed is the issuance of HUD home mortgage insurance for the Dogwood Park Phase II subdivision, Haughton, Bossier County, Louisiana. The subdivision will encompass a total of 462.8 acres of land and will be developed with a total of: (1) 899 single family units and 191 patio house units on 411.4 acres, (2) a 14 acre lake, (3) 25 acres of Greenbelt/open space, and (4) 12.4 acres of comercial units. Also Included is the considertion of 203 acres of presently nonparticipating lands which are expected to be bought by the developer and incorporated into the project. (HUD-RO6-EIS-80-12F). Comments made by: DOT, VA, HEW, DOI, COE, EPA, USDA. State and Local agencies. (EIS order No. 800915).

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

HERITAGE CONSERVATION AND RECREATION SERVICE

Final

NJ PINELANDS NATIONAL RESERVE MANAGEMENT PLAN: Several counties, New Jersey, December 4: Proposed is a mangement plan for the Pinelands National Reserve in the counties of Cape May, Atlantic, Burlington, Camden, Cumberland, Gloucester and Ocean, New Jersey. The reserve encompasses 1.1 million acres. The plan would condition, restrict or prohibit some uses in parts of the reserve while encourging development and uses in other parts, and consist of numerous policies and proposed regulations to be enforced by various State and local laws, and private sectors. The alternatives consider: (1) No action, (2) Preservation/Development oriented plans, and (3) Federal/State management approach. The cooperating agencies are NPS and FWS. (FES-80-51.) Comments made by: USDA, DOD, DOC, DOE, EPA, FEMA, HHS, HUD, DOI, NRC, DOT, State and local agencies, groups, individuals and businesses. (EIS Order No. 800932.)

BUREAU OF LAND MANAGEMENT

Draft

SCAB CREEK PRIMITIVE AREA, WILDERNESS DESIGNATION: Sublette County, Wyoming, December 3: Proposed is the designation of the Scab Creek primitive area and 956 contiguous acres for inclusion in the natonal wilderness acres located in Sublette County, Wyoming, for inclusion in the national wilderness preservation system. The total acreage proposed for designation is 7,636. The alternatives consider: (1) No action and (2) designation of a portion of the area totaling 6,680 acres. The cooperating agencies are the Geological Survey and the Bureau of Mines. (EIS Order No. 80017.)

EXTENSION: The review period for the above EIS has been extended to February 6, 1980. (No. 800917.)

FISH AND WILDLIFE SERVICE

Final

TRINITY RIVER FLOW MANAGEMENT: Trinity, Humboldt Counties, California, December 5: Proposed is a flow management program for the Trinity River in Trinity and Humboldt Counties, California, for the purpose of protecting and restoring Chinook Salmon and Steelhead Trout populations. The area encompasses approximately 2,965 square miles. The program would control the flows below Lewiston Dam in the following manner: (1) Increase to 340,000 acre-feet in normal years, (2) 220,000 acre-feet in dry years, and (3) 140,000 acre-feet in critically dry years. The cooperating agencies are the Water and Power Resources Service and the Bureau of Indian Affairs. (FES-80-52.) Comments made by: USDA, DOC, DOE, HUD, DOI, DOT, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800933.)

DEPARTMENT OF JUSTICE

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 (202) 633-2704.

BUREAU OF PRISONS

Final

PHOENIX FEDERAL CORRECTIONAL INSTITUTION: Maricopa County, Arizona, December 4: Proposed is the construction of a Federal Correctional Institution in Phoenix, Maricopa County, Arizona. The facility will contain an area of approximately 170,000 gross square feet of low profile buildings on 160 acres and will house approximately 300 inmates with possible future expansion to house another 200 prisoners. The alternatives consider: (1) Use of other sites, (2) care of inmates at State or county institutions, and (3) no action. (BOP-Z23). Comments made by: COE, USDA, DOI, EPA, HHS, AHP, State and local agencies. (EIS Order No. 800922).

OHIO RIVER BASIN COMMISSION

Contact: Fred J. Krumholtz, Chairman, Ohio River Basin Commission, 36 E. 4th Street, Suite 208, Cincinnati, Ohio 45202 (513) 684-3831.

Draft

CUMBERLAND R. BASIN WATER AND LAND RESOURCE PLAN: Kentucky, Tennessee, December 3: Proposed is a regional water and land resources plan for the Cumberland River Basin in Kentucky and Tennessee. The plan includes recommended projects and programs, recomended studies of specific problems, and recommended research and data collection efforts. (EIS Order No. 800916).

EXTENSION: The review period for the above EIS has been extended to February 23, 1980. (#800916).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

SALT LAKE CITY INTERNATIONAL AIRPORT: Davis, Salt Lake Counties, Utah, December 5: Proposed is a 20-year development plan for the Salt Lake City International Airport in Salt Lake City within the Counties of Davis and Salt Lake, Utah. Features of the plan include: (1) Construction of airport access system, terminal units 3, 4, and 5, adjoining aprons, additional parking, a subsurface and surface drainage system, and a new east general aviation runway; (2) relocation of the surplus and north point consolidated canals; (3) expansion of aviation facilities; (4) development of new air carrier runway complex; (5) various runway improvements; and (6) miscellaneous development items. Comments made by: DOE, COE, EPA, State and local agencies, individuals. (EIS Order #800935).

FEDERAL HIGHWAY ADMINISTRATION

Draft

US 20 BYPASS, US 20/US 31 TO COUNTY RD. 17: St. Joseph, Elkhart, Counties, Indiana, December 2: Proposed is the development of the US 20 bypass from the US 20/US 31 interchange to County road 17 around the cities of South Bend, Mishawaka and Elkhart within St. Joseph and Elkhart Counties, Indiana. The bypass would be a two lane facility separated by a 60 foot median. The alternatives consider: (1) use of a toll road, (2) construction of the bypass on the existing US 20 alignment, and (3) three options for construction of the bypass on a new alignment. (FHWA-IN-EIS-80-1-D). (EIS Order #800911).

Draft

US 70 IMPROVEMENT, ALAMOGORDO-TULAROSA SECTION: Otero County, New Mexico, December 5: Proposed is improvement of US 70/Alamogordo-Tularosa section in Otero County, New Mexico. The improvements would begin at Holloman AFB and end 2.8 miles east of US 54 extending for 26 miles. The alternatives considered within the Alamogordo segment are: (1) no action, (2) widening of existing route to 6 to 8 lanes, and (3) a 4 lane relief route one-half mile west of the existing route. The alternatives for the Tularosa section are: (1) no action, (2) improvement of existing route, and (3) two possible routes east of the Tularosa village limits. The cooperating agency is the State of New Mexico. (FHWA-NM-EIS-80-01-D). (EIS Order #800931).

BREMERTON FERRY TERMINAL CONSTRUCTION: Kitsap County, Washington, December 1: Proposed is the construction of the Brementon Ferry Terminal in Kitsap County, Washington. The terminal would consist of: (1) New and/or rehabilitated docking facilities; (2) 22,500 sq. ft. terminal; (3) separate parking, bus terminal, kiss-and-ride, and taxi areas; (4) separate pedestrian and bicycle circulation pathways, and (5) handicapped facilities. (EIS Order #800907).

MUKILTEO FERRY TERMINAL AND ACCESS IMPROVEMENT: Snohomish County, Washington, December 5: Proposed is the improvement of the Mukilteo Ferry Terminal and WA-525 in the city of Mukilteo, Snohomish County, Washington. Improvement of the terminal would include: (1) two ferry slips, (2) an increased vehicle holding area, (3) transit facilities, (4) improved restroom facilities, (5) walk-on passenger waiting room, (6) improved ticketing, and (7) provisions for the handicapped. The terminal access route will include truck-climbing lanes and either widening of existing WA-525 on a new road connecting the terminal with WA-526. The cooperating agency is the state of Washington. (FHWA-WA-EIS-80-06-D). (EIS Order #800927).

Final

KIPLING TO INDEPENDENCE, I-70 TO RALSTON ROAD: Jefferson County, Colorado, December 4: This project consists of the location and construction of a four lane arterial through the Kipling/Independence corridor. The corridor is located in the Northwest quadrant of the Denver metropolitan area and south central portion of the city of Arvada, Jefferson County, Colorado. In addition to a no build alternative four others are being considered which are: (1) maintain existing Kipling/Independence route, (2) extend kipling north to Arvada cemetery and transition into Independence, (3) transition from Kipling to Independence along the Public service power lines and extend up Independence, (4) extend Kipling north to Ralston Road. (FHWA-Colo-EIS-78-01-F). Comments Made by: HUD, EPA, COE, DOT, DOI, State and local agencies groups and individuals. (EIS Order 800918).

OSAGE EXPRESSWAY, CITY OF TULSA: Tulsa, Osage Counties, Oklahoma, December 1: Proposed is the construction of the Osage expressway in the city of Tulsa and in the counties of Osage and Tulsa, Oklahoma. The study corridor extends from the city of Tulsa on the southern boundary to OK-20 near the city of Skiatook on the northern boundary. The alternatives considered are: (1) two expressway routes, (2) upgrading the existing facilities to carry projected traffic volumes, (3) a mass transit alternative, and (4) no build. (FHWA-OK-EIS-79-01-F). Comments made by: EPA, HUD State and local agencies groups. (EIS Order 800908).

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

DETROIT DOWNTOWN PEOPLE MOVER: Wayne County, Michigan, December 4: Proposed is the awarding of a grant for the construction of a downtown people mover in the central business district of Detroit, Wayne County, Michigan The automated transit system would operate on an elevated, track guideway and would be controlled from a central operations facility. The system would be a 2.96 mile, single-lane, elevated loop alignment around the CBD. Some stations would be linked to major buildings by above-grade walkways. All stations would have access to street level. Comments made by: AHP, USDA, FEMA, DOT, DOI, EPA, HEW, local agencies, individuals and businesses. (EIS Order 800920).

[FR Doc. 80-38659 Filed 12-11-80; 8:45 am]
BILLING CODE 6560-37-M

[OPP-35000/2; PH-FRL 1700-6]

Determination Not To Initiate a Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Carbaryl; Availability of Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination not to initiated an RPAR.

SUMMARY: The EPA has concluded not to issue a rebuttable presumption against registration for carbaryl, a broad-spectrum pesticide currently registered by EPA for use as an insecticide/acaricide, and as a plant regulator. The Agency has determined to return carbaryl to the registration process; however, the Agency will require from registrants additional data to support existing registrations pursuant to section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and will negotiate appropriate label changes, outside the RPAR process, to ensure that exposure to carbaryl is held to reasonable levels.

ADDRESS: Copies of the Decision Document of Carbaryl are available from: Juanita Wills, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Room 711, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Juanita Wills (703-557-7420).

SUPPLEMENTARY INFORMATION:

I. Introduction

Carbaryl is a broad-spectrum insecticide/acaricide as well as a plant regulator used in thinning apples. Its major uses include applications to cotton, peanuts, soybeans, field and sweet corn, ornamentals and turf, forest and shade trees, deciduous tree fruits, many other fruit, vegetable, and nut crops, poultry, and pets. EPA has reviewed the risks associated with the use of carbaryl to determine whether a Rebuttable Presumption Against Registration (RPAR) should be issued for carbaryl. The Agency submitted carbaryl to the Special Pesticide Review Division (SPRD) as a candidate for the RPAR process primarily because a laboratory study conducted in 1968 found carbaryl to be teratogenic when administered in low doses to pregnant beagle dogs. A 1969 study of beagles also showed positive results. In addition to teratogenicity and fetotoxicity, the Agency was concerned that use of carbaryl had the potential to cause the following effects: mutagenicity, oncogenicity, neurotoxicity, and viral enhancement. This Notice sets forth the Agency's determinations with regard to the potential of carbaryl to produce these adverse effects of concern. The Agency has concluded that the overall weight of evidence of the extensive data which are currently available does not indicate that risk criteria warranting a Rebuttable Presumption Against Registration for carbaryl have been met or exceeded. Accordingly, the Agency has determined to return carbaryl to the registration process. Independent of the Agency's determination not to issue a Rebuttable Presumption Against Registration of carbaryl pesticide products, the Agency has determined that the following measures are warranted and will be pursued: (1) requirements for additional data to support the existing registrations, pursuant to section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended; (2) appropriate label changes to be implemented according to negotiations between the Agency and registrants to ensure that exposure to carbaryl is held to reasonable levels.

This Notice is organized into four units. Unit I is this Introduction. Unit II, entiled "Legal Background", sets forth a general discussion of the regulatory

framework within which these actions are taken. Unit III, and the accompanying Decision Document, set forth the determinations which the Agency has reached and the bases for these determinations. Unit IV, entitled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the determinations announced in this Notice.

II. The RPAR Process—Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide statisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (Sec. 3(c)(5)). The term "unreasonable adverse effect on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (Sec. 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard is on the proponent of registration and continues as long as the registration remains in effect. Under Sec. 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPRA process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. In broad summary, these regulations set forth certain criteria of risk and provide that an RPAR shall arise against a pesticide if the Agency determines that the ingredient(s), metabolite(s), or degradation product(s) of the pesticide in question meet or exceed any of these risk criteria.

In administering the RPAR process, the Agency adheres to the standard for initiating the RPAR process established by Sec. 3(c)(8), one of the 1978 Amendments to FIFRA, which provides that the Agency may not start and RPAR unless it has "a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment." In determining whether a particular pesticide raises "prudent concerns," the Agency examines the degree of toxicity of the pesticide as indicated in laboratory studies and attempts to extrapolate the degree of risk which is likely to be posed to humans and the environment. In making this kind of extrapolation, the Agency evaluates the quality and adequacy of all available data before proceeding with an RPAR. This approach allows the Agency to avoid the burdensome consequences of an RPAR proceeding in those case where studies of questionable validity have called the safety of a pesticide into question but where the overall toxicological profile does not indicate that prudent concerns are warranted.

The Agency generally announces that an RPAR has arisen by publishing a notice in Federal Register. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption is not rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide's uses, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA Sec. 6(b)(1) and Sec. 3(c)(6) of by issuing a notice of intent to hold a hearing pursuant to Sec. 6(b)(2) of FIFRA to determine whether the registration should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impact of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions of use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA Sec. 3(d).

III. Determinations and Regulatory Conclusions

A. Determinations on Risk

The Agency has considered information on the potential of carbaryl to produce teratogenicity and fetotoxicity, mutagenicity, neurotoxicity, and viral enhancement. The Agency's conclusions regarding these potential effects as based on currently available data are summarized below.

1. *Teratogenicity and Fetotoxicity.* 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption against a pesticide's registration and continued registration shall arise if that pesticide's ingredient(s) "produces any * * * chronic or delayed toxic effect [other than an oncogenic or mutagenic effect] in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account an ample margin of safety."

Data concerning the potential of carbaryl to induce adverse prenatal effects in mammalian species are extensive, more extensive than has been the case for other pesticides which have come under Agency review. As discussed in the introduction of this Notice, carbaryl became a candidate for the RPAR process because a laboratory study (Smalley, 1968) found carbaryl to be tertatogenic when administered to low doses to pregnant beagle dogs. A subsequent study (Imming et al., 1969) in beagle dogs also reported positive results. In addition, numerous studies have been conducted on diverse other mammalian species including the mouse, rat, gerbil, hamster, guinea pig, rabbit, swine, sheep, and monkey. All of the studies are not of equal utility, however, for purposes of assessing the potential of carbaryl to act as a perinatal toxicant in the environment. A number of the studies were done with inappropriate

protocols, and some of the older American studies, as well as many of the foreign papers, are seriously flawed by inadequate presentation of data. The Agency has therefore chosen to base its conclusions concerning the potential teratogenic and fetotoxic risk from carbaryl exposure on the weight of evidence of those studies which are valid and interpretable.

Based on an assessment of the weight of currently available evidence, two general conclusions may be drawn concerning the potential of carbaryl to affect mammalian development. The first is that the administration of carbaryl to pregnant animals (at sufficiently high dose levels and/or sufficient duration of treatment) may result in adverse effects to the embryo or fetus. Of those studies from which definite conclusions may be drawn, carbaryl has been shown to produce terta in the guinea pig, rabbit, and dog; and fetoxicity in the mouse, rat, and gerbil. The second conclusion which may be arrived at is that these effects have generally occurred at dose levels which are toxic to the maternal animal. Adverse developmental effects have been seen at levels which resulted in maternal death in the guinea pig, cholinergic toxcity in the rabbit, and weight loss in the rat and mouse (the health status of the maternal gerbils was not given in the published study concerning that species). The dog appears to be the only exception to this conclusion, and in this species the treated females had difficulty giving birth, a possible sign of carbaryl-induced maternal toxicity. In the Agency's judgment, the quality of the studies by Smalley et al., and Imming et al., which were conducted more than a decade ago, does not meet current scientific standards. Insufficient numbers of animals were included in the dose groups, and insufficient attention was paid to the condition of the bitches throughout the period of dosing, and to maternal and fetal blood levels of the compound.

The Agency fully acknowledges that the evaluation of these studies in terms of their applicability to the human population must be done with great care. In assessing the totality of the experiments, the Agency recongnizes that carbaryl has been tested in an extremely wide variety of species and has been found to be teratogenic only in three species (guinea pig, rabbit, and dog), of which defects were found in only one species (the dog) at doses below those causing maternal toxicity. In view of the circumstance that there are adequate prenatal studies in eight species, it would appear that carbaryl is not a potent teratogen. This same close dose relationship exists between maternal toxicity and forms of adverse fetal effects other than teratogenicity.

In judging the relevance of embryonic fetal effects which are "confounded" by gross maternal toxicity, several factors must be kept in mind. In an experiment where significant differences are seen between control and treated groups, these differences are by definition attributable to treatment. If adverse perinatal effects are found in carbaryl-treated litters, the cause of these effects is understood to be carbaryl. Even if these effects are seen only in litters of mothers who were themselves adversely affected by the carbaryl treatment, we must still conclude that carbaryl is the cause of the developmental effects.

When the Agency begins to consider the relevance of such studies to the human population, however, other factors must be taken into account. Foremost are possible mechanisms by which the effect in the developing organism was obtained. If, for instance, a compound is administered which affects the maternal animal's desire to eat, the mother may lose weight and be unable to provide sufficient nourishment to either the fetal or neonatal animal. A study such as this raises the question, however, whether any type of food restriction would have resulted in the same effect. If this is the case, the primary effect would be the food restriction, and the mechanism for producing it would become almost incidental. In the study by Robens (1968), for example, carbaryl produced terata in guinea pigs at doses which resulted in 40% maternal mortality. While carbaryl was by definition the teratogenic agent, it is very possible that the actual cause of the terate lies in some part of the general debilitation of the surviving animals. Without a control group which is equally sick it is impossible, however, to distinguish between the unique effects of carbaryl and the effects of the severe maternal toxicity. In all the species tested, with the possible exception of the dog, adverse fetal effects were not seen when there was no maternal toxicity. There is a valid question, therefore, as to whether carbaryl itself has any properties which render it fetotoxic or whether carbaryl, like most pesticides, can cause severe maternal toxicity when administered at sufficiently high doses, and some aspect(s) of this toxicity in turn results in adverse developmental effects.

Another aspect of the relationship of maternal toxicity to adverse fetal effects is the relationship between the effect doses of both types of effects. It is generally felt that a compound which is fetotoxic at much lower dose levels than it is maternotoxic has the potential to be a greater human hazard than one in which the effect levels are similar. The reason for this is that the former case is far more insidious environmentally, since a slight rise in terata or other fetal toxicity is extremely difficult to identify by epidemiological means. Acute health problems in the adult population are easier to identify, and corrective action may be swiftly taken. The relationship between maternal and fetal toxic dose levels clearly approaches equality in most species tested with carbaryl. Even in the case of the dog, some signs of maternal toxicity occurred at doses where terata were noted, indicating that in this species, too, adverse developmental effects were not seen at doses below those which elicited maternal toxicity.

In view of the overall weight of evidence of studies which are valid and interpretable, the Agency has concluded that currently available data on carbaryl do not indicate that a rebuttable presumption on the basis of teratogenic and fetotoxic effects is warranted at this time. In the Agency's judgment, the extremely high doses of carbaryl used to elicit effects in the developing organism, coupled with the positive correlation of maternal and fetal toxicity in the multiple species tested (the dog being a possible exception), indicate that carbaryl would not constitute a potential human teratogenic or reproductive hazard under proper environmental usage.

2. *Mutagenicity*. 40 CFR 162.11(a)(3)(ii)(A) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * induces mutagenic effects, as determined by multitest evidence." 40 CFR 162.3(y) defines mutagenicity as "the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations."

The Agency has reviewed the extensive data which are currently available on the mutagenicity of carbaryl and conducted an assessment of the mutagenic potential of carbaryl based on the weight of existing evidence. Specifically, the primary objective of a mutagenicity risk assessment is to determine the potential of a chemical to cause heritable germline effects in man (Environmental Protection Agency's Proposed

Guidelines for Mutagenicity Risk Assessments (45 FR 74984–74988). Only mutagenicity as a possible adverse effect of carbaryl per se is at issue in this determination. The possibility of a mutagenic risk posed by formation of N-nitrosocarbaryl in stomach physiology will be addressed in a separate Agency review of nitroso compounds.

In broad summary, carbaryl has been reported to produce gene mutations in bacteria, *Drosophila,* and mammalian cells in culture. However, there are several inadequacies in these studies. In addition, the results of cytogenetic tests imply that carbaryl may induce chromosomal effects in mammalian cells in culture, in whole mammals, and in plants, and carbaryl has been shown to cause primary DNA damage in cultured human cells. Collectively, all of these factors strongly suggest that carbaryl may act as a mutagen. To cause heritable effects in man, however, a chemical with intrinsic mutagenicity must reach the germinal tissue. Evidence that carbaryl and/or its active metabolites reaches the gonads is only suggestive. Gonadal effects in males—e.g., abnormal sperm morphology, reduction in the number of spermatogonia and spermatozoa in the seminiferous tubules, and reduced sperm motility—have been observed in rodents exposed to carbaryl (Degraeve et al., 1976; Shtenberg and Rybakava, 1968; Kitagawa et al., 1977). In addition, abnormal sperm head morphology has been reported in workers with known exposure to carbaryl. Therefore, given the weight of evidence, carbaryl may have the potential to act as a germ cell mutagen. It should be emphasized, however, that carbaryl is not intrinsically a potent mutagen in the reported studies, and probably acts as a weak mutagen only.

a. *Evidence Concerning Point (Gene) Mutations—Bacteria.* Originally, McCann et al. (1975) classified carbaryl as nonmutagenic in the *Salmonella*/microsome assay using four histidine-requiring strains. Metabolic activation did not augment the mutation frequency. Later, however, McCann and associates re-examined their data and conducted additional experiments at different concentrations of carbaryl to detect reversion at the histidine locus of *Salmonella typhimurium* TA 1535 (base-pair substitution sensitive strain). In the absence of metabolic activation they found that carbaryl appears to be weakly mutagenic.

The mutagenicity of carbaryl was also evaluated by Rashid (1978), employing five strains of *Salmonella typhimurium.* Rashid found that carbaryl produced a weak positive response only in strain TA 1535 (missense) in the absence of metabolic activation. The presence of rat liver (S–9) microsomal enzymes did not increase the reversion frequency. Cook (1977 [abstract]) observed weak mutagenic activity (2-fold increase) on another base-pair substitution sensitive strain TA 100 in the absence of metabolic activation. Egert and Greim (1976) reported positive mutagenic activity using the *Salmonella typhimurium* strain sensitive to frameshift mutagens TA 1538, with metabolic activation.

In contrast, several investigators have reported negative responses with carbaryl using the *Salmonella*/Ames test (Marshall et al., 1976; Shirasu et al., 1976; DeLorenzo et al., 1978; Blevins et al., 1977). Other bacterial tests in which carbaryl has been reported as negative include back mutations in *Bacillus subtilis* (DeGiovanni-Donnelly et al., 1976), forward mutations in *Haemophilus influenzae,* (Elespuru et al., 1974) and back and forward mutations in *Escherichia coli* (Ashwood-Smith et al., 1972; Egert and Greim, 1976; Fahrig, 1974; Ficsor and Ni Lo Piccolo, 1972; Nagy et al., 1975; Shirasu, et al., 1976).

b. *Evidence Concerning Point Mutations—Mammalian Cells in Culture.* Ahmed et al. (1977) found approximately a 9-fold increase in the number of ouabain-resistant (OUA^R) mutants over spontaneous mutants after V79 Chinese hamster cells were treated in monolayer with 10 uM of carbaryl (66% cell survival). These OUA^R mutants were reported to be phenotypically stable. Although carbaryl was found to be weakly mutagenic in this gene mutation assay, several inadequacies are apparent in this report which reduce the weight of the positive result: e.g., (1) a concentration-related increase in mutation frequency was not demonstrated, (2) concurrent positive controls were omitted, and (3) data were not presented to support the statement of phenotypic stability of the ouabain-resistant phenotype.

c. *Evidence Concerning Point Mutations—Drosophila: Sex-linked Recessive Lethal Test.* Brezheskii (1972) exposed *Drosophila melanogaster* males to a 1% suspension of "Sevin" (85% carbaryl) in dilute sugar for 24 hours (50% survival). Brezheskii reported a small increase in the percentage of complete (heritable mutations) and partial (not all mutations transmitted to progeny) recessive lethals (0.02%) as compared to control values.

d. *Evidence Concerning Primary DNA Damage.* Ahmed et al. (1977b) have shown that exposure of virally transformed human cells (VA–4) in culture to carbaryl initiates unscheduled DNA synthesis at exposure as low as 1 uM as determined (1) by autoradiography and (2) by photolysis of bromodeoxyuridine (BrdUrd), which is incorporated into DNA during DNA repair synthesis. Metabolic activation by liver microsomes did not enhance carbaryl's ability to induce unscheduled DNA synthesis. The cytotoxicity of the carbaryl doses used was not given in this report.

Regan et al. (1976) treated a culture of human skin cells with 100 uM of carbaryl for 1 hour and found no evidence of DNA damage. The technique employed, however, was not the same as that used by Ahmed et al. (1977b). Regan et al. (1976) determined the sedimentation profiles in alkaline sucrose gradients of cellular DNA treated with carbaryl as a detection method for DNA damage. This method of detection, however, may not be as sensitive as the (BrdUrd) photolysis method.

Siebert and Eisenbrand (1974) used a diploid strain of *Saccharomyces cerevisiae* D4 heteroallelic at the gene loci *ade*-2 and *try*-5 to assay for the ability of carbaryl to induce mitotic gene conversion in these loci. This is another assay that detects damage to DNA. In this organism, genetic activity (genetic damage) was not produced by a 16-hour carbaryl (1000 ppm) treatment. Yeast cells cultured in this solution showed only a 22% lethality.

e. *Evidence Concerning Chromosome Effects.* Several cytogenetic studies have shown that carbaryl can cause chromosome abnormalities (colchicine mitosis, chromosome lagging, chromosome fragmentation, multipolar anaphases, anaphase bridges, multinucleated cells) in both meiotic and mitotic chromosomes of plants (Wuu and Grant, 1966; Amer, 1965; Amer et al., 1971; Amer and Farah, 1968; Brankovan, 1972). Although carbaryl is capable of breaking chromosomes in plants, predominantly it causes mitotic disturbances by interfering with the spindle mechanism. This may result in chromosome loss and/or gain. Russian studies provide suggestive evidence that carbaryl may also act as an antimitotic agent in human cells in culture and in rats (Shpirt, 1975; Kazarnovskaya and Vasilos, 1977; Vasilos et al., 1972, 1975).

In addition, Ishidate and Odashima (1977) studied the effects of carbaryl on chromosomes of cultured Chinese hamster fibroblasts. Three different doses (0.0075, 0.015, 0.03 mg/ml) were added to cell cultures. At the maximum effective dose, 0.03 mg/ml (50% growth inhibition dose), several types of

chromosome aberrations (35% aberrant cells) were reported 48 hours after treatment. Specifically, chromatid gaps and breaks, chromosome breaks, translocation, ring formation, and fragmentation were observed with a higher frequency than in non-treated control cultures (1% aberrant cells). Although the authors stated the "gaps" were the predominant chromosomal effect, the frequency of occurrence for each particular type of aberration and the frequency of aberrations within a cell were not given. At lower doses, 0.015 mg/ml resulted in 24% aberrant cells, and 0.0075 did not appreciably affect chromosome structure (1% aberrant cells). The authors did not give the toxicity of these doses.

The dominant lethal assay in rodents, which detects chromosome damage in germ cells, was used both by Epstein et al. (1972) and by Weil et al. (1973). Using male mice, Epstein et al. (1972) administered 1000 mg/kg and 50 mg/kg (subtoxic doses) of carbaryl by gavage in daily portions over five consecutive days. Reportedly, this dosage schedule did not produce significant early fetal deaths or preimplementation losses. However, data were not presented in this report to support this statement. Weil et al. (1973) looked for dominant lethality in rats using a 3-generation study and found no significant lethal effects. The authors do not state if the carbaryl dosage level was the maximum tolerated dose. Furthermore, the number of males treated, the number of virgin untreated females mated with each treated male, and the number of implant and fetal deaths per female of test or control groups are not given in this report.

f. *Evidence as to Whether Carbaryl Reaches the Germinal Tissue.* In order for any mutagen to cause genetic alterations that may be inherited by future generations, it must reach the gonads. Numerous inadequacies are apparent in the available reports concerning the potential of carbaryl to reach the mammalian gonads, and the evidence is considered suggestive rather than conclusive.

Two epidemiological studies of gonadal effects in carbaryl-exposed males have been reviewed by the Agency. Wyrobek et al. (1980) analyzed semen samples from 50 carbaryl production workers who had spent at least one year on the job, using semen from thirty-four new hires for control purposes. A significant elevation of sperm abnormalities (abnormal head morphology) in currently exposed workers as compared to controls was observed. However, previously exposed workers (an average of 6.5 years since last carbaryl exposure) did not exhibit a significant elevation of sperm abnormalities from control values. Because of the small sample size, however, it cannot be established if carbaryl effects are reversible. Although this study reports a statistical correlation between working in a carbaryl-exposed area and an alteration of human spermatozoa, it is not clear that carbaryl is the causative link since these workers were exposed to pesticides other than carbaryl. The Agency has serious doubts about the validity of this study in view of the generally weak methodology employed. A small number of employees was observed, no longitudinal follow-up (multiple sampling with the same workers) was carried out, study results were in all likelihood confounded by the effects of aging in view of the difference in mean age between new-hire controls (24 years) and exposed subjects (39 years), and those workers who were subject to the longest durations of exposure exhibited lesser sperm morphology effects. In an earlier epidemiological study performed with workers at the same plant studied by Wyrobek et al. (1980), Whorton and Milby (1978) examined semen samples provided by 47 workers. The results of the semen counts were compared to semen counts obtained from 90 members of a composite (off-site) control population. A higher percentage of the carbaryl-exposed workers (14.9%) showed depressed sperm counts (less than 20 million per ml) than did the control group (5.5%), but the difference is not considered statistically significant ($p=0.0686$). Reproductive hormone levels in the carbaryl-exposed workers were normal.

In addition to the epidemiological studies cited above, the Agency has reviewed a number of gonadal studies in rodents, though most of these reports are flawed in terms of the rigor of the experiments performed, or by inadequate presentation of data. The following studies reported adverse gonadal effects: Krylova and Denisova (1973), [Russian study]), Kitagawa et al. (1977), Degraeve et al. (1976), Thomas et al. (1974), and Shtenberg and Rybakova (1968). In contrast, some investigators have reported no significant gonadal effects attributable to carbaryl: Dikshith et al. (1976) and Weil et al. (1973).

Due to the weak mutagenic responses which have been measured, and due to the suggestive rather than conclusive nature of the evidence available as to the potential of carbaryl to reach the germinal tissue, the Agency has determined that the weight of evidence does not constitute a basis on which to conclude that carbaryl poses a mutagenic risk. The Agency has therefore determined that a rebuttable presumption against carbaryl on the basis of mutagenic effects is not warranted at this time.

3. *Oncogenic Effects.* 40 CFR 162.11(a)(3)(i)(A) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) induce(s) "oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure." The term "oncogenic" is defined in 40 CFR 162.3(bb) as "the property of a substance or mixture of substances to produce benign or malignant tumor formation in living anaimals." To determine whether or not carbaryl might pose an oncogenic hazard warranting a rebuttable presumption, the Agency has conducted a review of the available literature. Only oncogenicity as a possible adverse effect of carbaryl per se is at issue in this determination. The possibility of an oncogenic risk posed by formation of N-nitrosocarbaryl in the stomach will be addressed in a separate Agency review of nitroso compounds.

Innes et al. (1969) administered 4.64 mg/kg carbaryl in 0.5% gelatin daily by stomach tube to mice, beginning at 7 days of age and continuing until mice were 6 weeks old. (Carbaryl dosage was not adjusted according to weight gain during the 6-week period.) Vehicle groups and untreated control groups consisted of 18 animals each. Subsequently, the vehicle groups were fed a diet containing 14 ppm carbaryl, and the experiment was terminated when the mice were approximately 78 weeks of age. Treated mice showed no significant increase in the incidence of tumors over controls. It should be pointed out, however, that the 14 ppm dietary dosage of carbaryl was probably too low to be a firm indicator of no oncogenic potential. In a parallel experiment, Innes et al. (1969) administered a single subcutaneous dose of 100 mg carbaryl/kg in DMSO to weanling mice. Tumor incidence in treated animals was not significantly increased.

In a study conducted by the Mellon Institute (1963), groups of 48 male and 48 female CD-1 mice were fed diets containing 0.04%, 0.01%, and 0% carbaryl. Seventy-two of the 288 animals included in the study were given gross and histopathological examination. Of the other 216 animals, those which died during the initial 80-week period (50%) were subjected to gross examination,

and tissues suspected of having pathology were examined histologically. Of the 65 animals allowed to live for 2 years, 9 males and 21 females were sacrificed at the end of the period, and no information was given on the remaining animals. No significant difference in tumor incidence between treated and untreated animals was observed in those mice sacrificed after 80 weeks, those which died during the 80 week period, or those sacrificed at the end of 2 years. Because this study is very seriously flawed, however, it cannot stand as a basis for any determination for or against the carcinogenic potential of carbaryl. Among numerous drawbacks, the most serious problems are (1) that no information is available concerning 93 of the 288 animals with which the experiment began, and (2) that for animals dying during the study, histopathology was carried out only on animals suspected of tumor growth and not on all animals.

In another experiment conducted by the Mellon Institute (1962), a mixture of 40 parts Sevin 85 sprayable powder (85% carbaryl) and 60 parts water was applied (schedule of application unspecified) on the skin of 36 mice for 30 months. None of the animals developed tumors. In the same experiment, methlycholanthrene (0.2% solution in acetone) was applied to a group of 32 animals. All animals in this group developed tumors by the end of 12 months. Details concerning pathology and experimental procedure were not available for review, however.

Makovskaia et al. (1965) administered weekly doses of carbaryl (60 mg/kg in a 2% solution in sunflower oil) intraperitoneally to groups of line A and c_3HA mice. The experiment included 400 carbaryl-treated animals, 150 animals treated with urethane (200 to 1000 mg/kg intraperitoneally) as a positive control group and 100 animals in the untreated control group. Animals were sacrificed at 1, 3, 5, 9, 12, 15, 18, and 24 months after the test began, and several organs (lungs, kidneys, liver, heart, spleen, pancreas, thyroid, and adrenals) were reportedly examined histopathologically. Makovskaia et al. reported that "carbaryl treatment did not produce any new growth in lungs or liver," but their report failed to provide experimental details necessary for evaluation. No conclusion concerning the carcinogenic potential of carbaryl can be drawn from this study.

Carpenter et al. (1961) maintained groups of male and female CF-N rats on a mixture of Purina Chow and carbryl (in concentrations of 0.04%, 0.02%, 0.01%, 0.005%, and 0.00%) for two years. Rats were 60 days old when the experiment began, and 20 rats were included in each group. Sixty-one of the 102 animals which died during the study, and 98 animals sacrificed at the end of the study, were examined histopathologically. Although female rats were found to have more pituitary tumors relative to males, no significant increase in tumors was found in treated groups relative to controls. The validity of Carpenter et al. is compromised, however, in that the study began not with newborn or weanling rats but with 60-day-old animals. Because they are known to be more sensitive to chemical carcinogenesis than are adults, newborn or weanling animals are preferred for purposes of cancer bioassays (CAG, 1977).

An an experiment conducted by Andrianova and Alekseev, a group of 60 adult male rats (mongrels) was given 30 mg/kg carbaryl orally (as a water suspension) twice weekly by gavage for 22 months. This dose was approximately one-twentieth of the LD_{50} dose. Tumors, as well as organs suspected of having tumors, were examined histopathologically. Out of 12 rats alive in the treated group at the end of the experiment, four animals were found to have malignant tumors (sarcomas). In another experiment, Androanova and Alekseev (1970) introduced 20 mg of carbaryl (enclosed in a purified paraffin capsule weighing 250 mg) hypodermically in a group of 48 male rats. Tumors were discovered in 2 out of 10 rats that survived 22 months. In both animals, tumors (diagnosed as fibrosarcoma) were observed under the skin near the back, not near the site of the implant. Whether or not controls were similarly implanted with gelatin capsules without the chemical was unclear. Andrianova and Alekseev used a group of 48 untreated rats as controls for both these experiments. Among controls, one fibrosarcoma was discovered after 11 months, at which time 46 of the original controls remained alive. The number of controls surviving the full 22 months of the experiment was not given.

In a study performed by Shimkin et al. (1969), the carcinogenic potential of carbaryl was tested with the pulmonary tumor response in male A/He mice, 7 to 9 weeks old. Carbaryl was prepared by reacting its chloroformate with ammonia. The dosing vehicle was 99.9% pure tricaprylin. Intraperitoneal injections of 20 mg carbaryl/kg were made 3 times weekly for 4 weeks. The mice were sacrificed at 20 weeks after the final injection. Necropsies were performed, and lungs were examined microscopically. Untreated and vehicle-treated control animals were similarly maintained and evaluated. Fifteen of an original 16 carbaryl-treated animals survived to 20 weeks. Upon sacrifice and examination, one lung tumor was found in each of 4 animals, and 2 lung tumors were found in each of 2 animals. Twenty-eight of an original 32 vehicle control animals survived to be sacrificed. Upon examination, 1 lung tumor was found in each of 6 animals, and 1 animal had 2 tumors. Thirty-one of an original 32 untreated control animals survived to be sacrificed. Upon examination, 1 lung tumor was found in each of 2 animals. The number of lung tumors per mouse in the carbaryl-treated, vehicle control, and untreated control groups was, respectively, 0.7, 0.3, and 0.1.

The tumor incidence observed by Shimkin et al. in carbaryl-treated mice (40%), was slightly higher than in the vehicle control group (25%). However, this difference is not statistically significant. Moreover, Shimkin et al. in fact state that a slightly higher tumor incidence in vehicle-control mice (used as the standard comparison group in the above calculation) over untreated control mice is commonly observed in this strain. In the Agency's judgment, no conclusion about the potential human carcinogenicity of carbaryl can be made from this test.

A study has been reported by A. J. Triolo (1978) in a U.S. EPA document, which attempted to evaluate the ability of carbaryl to enhance the incidence of forestomach tomors in Ha/ICR female mice and lung tumors in A/J female mice treated with benzo(a)pyrene (BP). Dietary levels of carbaryl up to 2000 ppm did not increase the incidence of forestomach tumors in mice treated with 300 ppm benzo(a)pyrene in the diet for 12 weeks. In A/J mice given 3 mg benzo(a)pyrene *per os* on days 7 and 21, 1000 ppm carbaryl in the diet produced a statistically significant ($P<0.05$) increase in lung tumor incidence (18/18) as compared to the BP-treated control (15/17). This increase is slight, however, and in a repeat experiment the incidence in the carbaryl-BP group (16/34) was similar to that in the BP group (16/31). The A/J mice were on study for 20 and 16 weeks, respectively, in these experiments. The Agency's conclusion with respect to this study is that a co-carcinogenic effect has not been conclusively demonstrated.

Based on the weight of evidence of available studies on carbaryl the Agency has concluded that a rebuttable

presumption on the basis of oncogenic effects is not warranted a this time.

4. *Neurotoxicity.* As stipulated in 40 CFR 162.11(a)(3)(ii)(B), "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * produces any other chronic or delayed toxic effect in test animals at any dosdage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety."

Three available studies concerning the neurotoxicity of carbaryl have been reviewed by the Agency. To test the neuromuscular degenerative potential of carbaryl as compared with that of triorthocresyl phosphate (TOCP), Carpenter et al. (1961) administered single subcutaneous injections (concentrations of 25% to 40% in lard) to 2-year-old moulting Rhode Island Red hens (13 and 10 hens, respectively). In addition, undiluted TOCP was given to one chicken, and undiluted lard was given to two others. Five control chickens received no injections. No adverse effects were observed at 1.0 g/kg or lower doses of carbaryl. Chickens administered 2.0 g/kg carbaryl showed leg weakness on the first or second day following dosing, and in only one case was the chicken nonambulant for 3 days. A nephrotoxic action was also observed in fowl which received 2.0 g/kg or larger injections of carbaryl. Necrosis was not present. In hens which received 3.0 g/kg carbaryl, leisions were observed. Such lesions were found at all levels in hens examined after injection with TOCP, with the anomalous exception of the 2.0 g/kg dosage. Likewise at all dosage levels tested, animals injected with TOCP showed fatty deposition of a similar though more diffuse nature to that observed in fowl administered 2.0 g/kg or larger doses of carbaryl. At 3.0 g/kg, TOCP proved lethal in 3 to 10 days, with leg weaknesses observed in 3 of 4 cases only on the day of death. At all lower dosage levels, weakness was not apparent until the thirteen or fourteenth day. Upon histopathological examination, slight evidence of demyelination was observed in three of the 10 TOCP-treated hens, whereas carbaryl-treated hens showed no signs of demyelination.

In screening tests for the production of paralytic effect in chicken hens, Gaines (1969) tested 30 organic phosphorous pesticides and 9 carbamate pesticides including carbaryl. Gaines (1969) administered carbarly subcutaneously to hens at doses of 800 and 1600 mg/kg and observed them for 24 days. Prior to carbaryl treatment, the hens were treated with 15 mg/kg of atropine orally. The hens treated with 1600 mg/kg dose of carbarly showed leg weakness within 24 hours, but all chickens recovered by day 24. The TOCP-treated animals developed paralysis after 14 days, and the paralysis continued until death.

Smalley et al. (1969) administered carbaryl at a dose of 150 mg daily for 72 and 83 days to one male pig and one female pig, respectively. In a second experiment, one female and two males given 150 mg/kg of carbaryl for 28 days, followed by 300 mg/kg/day for either 18 (males) or 57 (females) additional days. Ataxia was observed in both experiments. Microscopic examination of skeletal muscle showed myodegeneration. The author reported that hydrochlorothiazide, a diuretic, reversed the signs of toxicity of carbaryl administration in chronic testing of pigs.

Based on this currently available evidence, the Agency has concluded that carbaryl does not pose a neurotoxic hazard and that a rebuttable presumption on the basis of neurotoxicity is not warranted at this time.

5. *Viral Enhancement.* A recent study (Abrahamsen and Jerkofsky, 1980) which has come to the Agency's attention concerns viral enhancement as a possible adverse effect of human exposure to carbaryl. Abrahamsen and Jerkofsky investigated the effect of Sevin 4 oil on the replication of the human herpes virus varicella-zoster (VZ) in primary human embryonic lung (HEL) and HEP-2 cell cultures. Complete Sevin 4 oil, its active ingredient (analytic grade carbaryl) and its "base oil plus inert ingredients" in sub-toxic concentrations, were tested for the ability to enhace the growth of VZ virus as measured by an infectious center assay. A 12- to 15-fold increase in virus production by cells pretreated with Sevin 4 oil and carbaryl was observed. No enhancement was observed in base oil-treated cultures. Similar results were obtained when HEP-2 cells were used. Viral enhancement appeared to be concentration-related in that decreasing concentrations of carbaryl brought decreases in viral enhancement. Experiments with herpes simplex virus type 1, however, showed no viral enhancement by sevin 4 oil of any of its components. Abrahamsen and Jerkofsky suggest that the results of their work may be pertinent to studies of Reye's syndrome "since published epidemiological evidence has suggested a possible relationship between pesticide spraying, certain viral diseases including chickenpox or varicella, and the subsequent occurrence of Reye's syndrome" (Abrahamsen and Jerkofsky, 1980 [abstract]).

With regard to viral enhancement as a possible adverse effect of exposure to carbaryl, the Agency's determination at this juncture is that the work of Abrahamsen and Jerkofsky is preliminary in nature and that current data do not constitute a basis on which to conclude that carbaryl poses a human hazard in terms of viral enhancement. The Agency has therefore concluded that a rebuttable presumption is not warranted at this time.

B. Regulatory Determinations

As discussed in the preceding sections, the Agency has considered all available information on the human risks posed by the use of carbaryl and has concluded that the overall weight of evidence does not raise prudent concerns of unreasonable adverse risk. Consequently, the Agency has determined that the issuance of a rebuttable presumption against registration for carbaryl is not warranted at this time. Accordingly the Agency has determined to return carbaryl to the registration process. The reasons which form the basis for this determination are set forth in further detail in a separate Decision Document. Should further review of data call these determinations into question, the Agency will re-evaluate its conclusions and, if warranted, initiate an RPAR proceeding or take other appropriate regulatory actions.

C. Other Determinations

While the Agency has determined not to proceed with an RPAR action at this time, the Agency will pursue the courses of action outside the RPAR process to remedy data limitations and to ensure that exposure to carbaryl is held to reasonable levels.

During the review of carbaryl to determine if the available data indicated that the pesticide met or exceeded the RPAR risk criteria, the Agency discovered limitations in the data pertaining to the possible toxic effects of carbaryl. The Agency has therefore determined that it will request additional data, under the authority of Sec. 3(c)(2)(B) of FIFRA, to maintain the registrations of carbaryl products in effect. The request for this data is independent of the Agency's determination not to initiate a rebuttable presumption against registration for carbaryl pesticide products. The data requirements imposed by the Agency pursuant to Sec.

3(c)(2)(B) will be formally communicated to the registrants in the near future. In addition, negotiations between the Agency and registrants will be initiated regarding appropriate label changes to ensure that exposure to carbaryl is held to reasonable levels.

IV. Procedural Matters

In accordance with the determinations announced in unit III of this Notice, the Agency will not initiate a rebuttable presumption against registration for pesticide products containing carbaryl at this time, but will return carbaryl to the registration process. Copies of this Notice and the separate Decision Document will also be transmitted to the affected registrants and applicants. Other interested persons may obtain a copy of the Decision Document by contacting Juanita Wills at the address or telephone number given in this Notice.

Upon receipt of the 3(c)(2)(B) data, and any other data which provide information about the potential of carbaryl to produce adverse effects in man and the environment, the Agency will review the carbaryl data base to determine if the initiation of an RPAR proceeding, or other appropriate regulatory action, is warranted.

Dated: December 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38577 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-32-M

[EN-FRL 1699-4]

Approval of Georgia's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Georgia's request for authority to administer the national pollutant discharge elimination system (NPDES) program with respect to Federal facilities.

SUMMARY: On December 8, 1980, the Environmental Protection Agency (EPA) approved the State of Georgia's request to include regulation of Federal facilities under their State water pollution permit program. Previously the State had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT: Joel Blumstein, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-426-4793.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendment, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b) reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's Federal Register notice is to announce the approval of the State of Georgia's request to assume NPDES authority over Federal facilities.

Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		
Delaware	04/01/74		
Georgia	06/28/74	12/8/80	
Hawaii	11/28/74	06/01/79	
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74		
Missouri	10/30/74	06/26/79	
Montana	06/10/74		
Nebraska	06/12/74	11/02/79	
Nevada	09/19/75	08/31/78	
New York	10/28/75	06/13/80	
North Carolina	10/19/75		
North Dakota	06/13/75		
Ohio	03/11/74		
Oregon	09/26/73	03/02/79	
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75	09/26/80	
Tennessee	12/28/77		
Vermont	03/11/74		
Virgin Islands	06/30/76		
Virginia	03/31/75		
Washington	11/14/73		
Wisconsin	02/04/74	11/26/79	
Wyoming	01/30/75		

Dated: December 8, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-38581 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-33-M

[OPTS-51190; SH-FRL 1700-3]

Butanenitrile, 2-Methyl, 2-Amino; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by January 12, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: David Dull, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues on January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the

effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identify of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidnetial description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

It no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identify, chemical use(s), the identify of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitlied to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review, a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. It EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before January 12, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51190]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: December 4, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-311

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 28, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Butanenitrile, 2-methyl, 2-amino.

Use. Intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Eye irritation test—Moderate damage; reversible if washed immediately.
D.O.T. skin corrosion—No test, but other tests suggest negative.
Acute oral test, LD_{50} (guinea pigs)—74 mg/kg.
Primary skin irritation and sensitization—Negative.
Skin irritation (rabbits)—Slight to negative.

Exposure

Activity and exposure route	Maximum number exposed	Maximum duration		Concentration (unit: ppm)	
		Hours/day	Days/year	Average	Peak
Manufacture: Vapor, liquid	5	0.5	4	0-1	

Environmental Release/Disposal. The manufacture states that there will be no environmental release of the new substance during manufacture and that waste streams and washings are collected and sent to licensed incinerator.

[FR Doc. 80-38580 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-180537; PH-1-RL 1700-5]

California; Issuance of Specific Exemption for Terramycin on Sweet Cherries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Terramycin on 10,300 acres of sweet cherries in nine counties in California, for the control of Western X-disease. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on March 15, 1981.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, Western X-disease has caused the virtual elimination of commercial sweet cherry culture in many California growing areas. This disease is caused by an unnamed mycoplasma, and diseased trees have been shown to respond to injections of oxytetracycline. Disease is spread from infected to healthy trees during the growing season by several leafhopper vectors. The Applicant states that continuing epidemic conditions of this disease threaten to eliminate commercial cherry culture in the State. There are no pesticides registered for control of the disease nor are there any alternative methods of control. The

Applicant indicates that without adequate control of the disease, a loss of $3 million cound be experienced in 1981.

The Applicant proposed to treat up to 10,300 acres of sweet cherries grown in Contra Costa, El Dorado, Placer, Sacremento, San Joaquin, Santa Clara, Solano, Sonoma, and Yolo Counties, California, with one application of Terramycin, which contains the active ingredient oxytetracycline hydrochloride. Application will be by either tree infusion or pressure injuction and will not be made from 10-percent bloom until after harvest.

EPA has determined that the residue level of Terramycin in cherries from the proposed plan should not to exceed 0.1 part per million (ppm); this level is deemed adequate to protect the public health. The proposed tree injection method of application should significantly limit exposure to applicators and the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 15, 1981, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product, Terramycin Tree Injection Formula (EPA Reg. No. 1007–79), manufacture by Pfizer Chemicals, may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. Application will be at a rate of 1 to 2 quarts of 1,320 ppm oxytetracycline solution per tree.

3. Application is limited to 10,300 acres of cherries grown in the counties named above.

4. A maximum of 5,896 pounds of Terramycin may be applied.

5. Only trees which a knowledgeable expert has determined to be infected may be treated.

6. Application of Terramycin will not exceed one time per year and may not be made from 10-percent bloom until after harvest.

7. Terramycin may be applied by either tree infusion or pressure injection.

8. Applications will be made by or under the supervision of applicators State-certified for this category of pest control.

9. All applicable directions, restrictions, and precautions of the EPA-registered product label must be adhered to.

10. The EPA must be immediately informed of any adverse effects resulting from the use of Terramycin in connection with this program.

11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by June 15, 1981.

12. Cherries with oxytetracycline hydrochloride residues not exceeding 0.1 ppm may enter interstate commerce. The Food and Drug Adminstration, U.S. Department of Health and Human Services, has been advised of this action.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: December 5, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38578 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180531; PH-FRL 1700-4]

Oklahoma; Crisis Exemption for Diazinon in Wheat Fields

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that Oklahoma availed itself of a crisis exemption for the use of Diazinon to control white grubs on 200,000 acres of land to be planted to winter wheat in Blaine, Canadian, Garfield, Grant, Kingfisher, and Major Counties, Oklahoma. Since the need for this program was expected to continue for more than 15 days, Oklahoma requested a specific exemption for the continuation of the program.

DATE: It is anticipated that the need will continue into November, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-107, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: Oklahoma notified EPA that it had initiated a crisis exemption for the use of Diazinon to control white grubs on September 18, 1980. Oklahoma reported that spotty infestations of white grubs appeared over approximately 200,000 acres of land to be planted to winter wheat. Populations of white grubs in infested fields exceeded the economic level of three grubs per square foot. Since growers were to begin sowing winter wheat within the next few days, and it was necessary for the insecticide to be applied to the soil prior to planting, there was insufficient time to apply for a specific exemption, according to Oklahoma. Oklahoma stated that there are no pesticide products registered for this use.

Diazinon 14G Granules were applied at the rate of 7 to 14 pounds per acre. Application was broadcast with a grass seeder attachment or fertilizer spreader. Diazinon AG500 was used at a rate of 1½ to 2 quarts per acre applied in sufficient water for good coverage with a boom-type or other suitable sprayers. The granules or liquid application was then to be incorporated immediately into the soil to a depth of 2 to 4 inches by means of a disk or other tillage tools. Oklahoma has requested a specific exemption for a continuation of this program.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: December 5, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38579 Filed 12-11-80; 8:45 am]

BILLING CODE 6560-32-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Part Time Employment Program

November 19, 1980.

AGENCY: Export-Import Bank of the United States.

ACTION: Proposed implementation of the Federal Employees Part-Time Career Employment Act of 1978.

SUMMARY: The Federal Employees Part-Time Career Employment Act of 1978 (Pub. L. 95-437) provides for the expansion of part-time employment opportunities in the Federal Service. The following proposed procedures of the Export-Import Bank of the United States (EXIM) set forth the provisions of the Law and the criteria and procedures for administering the program in the agency. This gives notice of the proposed procedures as Staff Memorandum No. 340 and asks the public for comment.

DATES: Comments will be considered if received on or before February 10, 1981.

ADDRESS: Send comments to Tamzen C. Reitan, Personnel Officer, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571.

FOR FURTHER INFORMATION CONTACT: Daniel V. Dowd at telephone (202) 566-8337.

Staff Memorandum No. —— Part-Time Employment Program

I. General Provisions

A. *Purpose.* This staff memorandum sets forth procedures to implement the Federal Employees Part-Time Career Employment Act of 1978 (Pub. L. 95–437), by establishing a continuing program at EXIM to provide career part-time employment opportunities.

B. *Policy.* It is the policy of EXIM to provide career part-time employment opportunities in positions through GS–15, or the equivalent, subject to agency resources and mission requirements. This policy recognizes the desirability of maximizing utilization of all available human resources, particularly those individuals available for part time employment. It represents an opportunity to acquire talented workers who would not otherwise be available to the agency. Selection of part time employees will be made without regard to religion, race, color, national origin, marital status, sex, age, non-disqualifying physical handicap, political or labor organization, or personal favoritism.

C. *Definitions.* 1. For the purposes of this memorandum, part time career employment is defined as regularly scheduled work of from 16 to 32 hours per week, in either the competitive or excepted service, in Tenure Group I or II. Employment on a temporary or intermittant basis is not included.

2. Tenure Group I includes employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

3. Tenure Group II includes employees in the competitive service serving probation, career-conditional employees, and career employees in obligated positions; it also includes employees in the excepted service serving a trial period or whose tenure is equivalent to career conditional in the competitive service.

D. *Applicability.* These procedures are applicable throughout the Bank.

E. *Exceptions.* 1. These procedures do not apply to positions in the Senior Executive Service or positions at the GS–16 or equivalent level and above, nor do they apply to career part time employees who were working on a permanent part time basis (including those working less than 16 hours or more than 32 hours per week) on the effective date of the Act (April 8, 1979) so long as they continue to work on a part time basis, do not have a break in service of more than three days, or leave their part time schedule on other than a temporary basis.

2. Employment of part time staff for less than 16 hours per week may be permitted when absolutely necessary to carry out EXIM's mission.

3. No person employed on a full time basis in the agency shall be required to accept part time employment under this program as a condition of continued employment.

4. EXIM reserves the right to identify positions that cannot be staffed on a part time basis without adversly affecting the agency's mission.

5. The Personnel Officer of EXIM or her/his designee may authorize such additional exceptions on an individual position basis as may be necessary for EXIM to carry out its mission. However, in no case will exceptions be authorized to permit regular tours of duty of 33 to 39 hours per week for part time employees. (This in no way prohibits the increase of a permanent part time employee's actual hours to above 32 hours per week for limited periods due to heavy workload.)

F. *Amendment.* This memorandum may be amended or revised, as required, by the President and Chairman of EXIM.

II. Program Implementation

A. *Program Coordination.* The Personnel Officer is designated as the Program Coordinator for part time career employment and as such is responsible for:

1. Annually developing goals and timetables jointly with the divisions,

2. Monitoring progress in expanding part time opportunities and responding to requests for assistance from the divisions and individuals,

3. Preparing reports on part time employment for the OPM as required,

4. Assessing the program for Equal Employment Opportunity effectiveness, and

5. Maintaining liaison and consulting with groups interested in promoting part time employment opportunities.

B. *Part Time Employment Goals and Timetables.* 1. On an annual basis, as part of the manpower planning and budget process, the program coordinator, in consultation with the divisions, will set goals for establishing part time positions or converting full time positions to part time. The coordinator will also set a time table with interim and final deadlines for achieving these goals.

2. In establishing goals and timetables, the following factors will be considered:

(a) Agency mission and potential for improved service to the public,

(b) Workload fluctuations,

(c) Size of the workforce, turnover rate, employment trends, availability of applicants for part time work and occupational/grade mix,

(d) Affirmative Action,

(e) Patterns of overtime utilization,

(f) Personnel ceiling allowances and fiscal constraints, and

(g) Past experience with part time employment, including analysis of current part time utilization and current employee interest in part time employment.

C. *Program Evaluation and Reporting.* The part time career employment program will be subject to continuing review and evaluation by the Program Coordinator. EXIM will submit a report to the OPM on May 15 and November 15 of each year. The program will be reviewed as part of the internal personnel management evaluation process. Topics to be covered in the reports will include:

1. Progress in meeting goals and timetables,

2. Impediments to the program and solutions to overcome them, and

3. The extent to which part time employment opportunities have been extended to older persons, the handicapped, persons with family responsibilities, and students

III. Practices and Procedures

A. *Vacant Position Review.* All vacant positions covered by the program will be reviewed by the supervisor and the program coordinator, using the factors outlined under establishing goals and timetables, for the feasibility of conversion to part time.

B. *Conversion of Current Employees from Full Time to Part Time.* Any full time agency employee may request conversion to part time by submitting a written request to the Program Coordinator through the employee's supervisor and outlining the reasons for the request. The Program Coordinator will decide whether to approve the request with input from all affected managers.

C. *Notification of Part Time Opportunities.* Employees and the public will be notified of part time career opportunities in accordance with the EXIM Merit Promotion Plan (Staff Memorandum No. 51 Revised).

D. *Effect on Employment Ceilings.* Part time employees will be counted on the basis of the fractional part of the 40-hour week actually worked. For example, two employees each working 20 hours per week will count as one employee.

E. *Daily Schedule.* Daily schedules of 6 hours or more in part time tour of duty

must include an additional 30 minutes for a meal break.

F. *Promotion and Training.* Part time career employees will be eligible for promotions subject to the OPM qualification requirements and will be eligible for training opportunities as provided for in EXIM Staff Memorandum No. 4.

G. *Benefits.* Part time career employees are entitled to coverage under the Civil Service Retirement System, and are eligible for coverage under the Federal Employees Group Life Insurance and Federal Employees Health Benefits Programs. The government contribution toward the cost of enrollment under the Health Benefits programs will be prorated on the basis of the fraction of a full time schedule worked. Part time career employees will receive full civil service retirement credit even though working less than a 40 hour week. Part time career employees will earn sick and annual leave on a prorated basis based on the number of hours worked and the amount of Federal service.

H. *Reduction in Force and Adverse Actions.* During reductions in force, part time career employees will compete with other part time employees on an equal basis subject to years of service, veterans preference, etc. and are entitled to the same appeal rights and protections in adverse action and reduction in force proceedings as permanent full time employees.

I. *Holidays.* Part time career employees will be paid only for those holidays which fall on a day they are regularly scheduled to work.

J. *Tours of Duty*—Requests for changes in the tour of duty of a part time career employee must be approved by the supervisor. The new schedule must be set in advance of the workweek in which the change is to occur and must be recorded on an SF-50 if it will last for more than two weeks.

K. *Crediting of Service.* Part time career employees receive a full year of service credit for each calendar year worked for the purpose of computing retirement, date of career tenure, completion of probationary period, within-grade pay increases, changes in leave category, and time-in-grade restrictions on advancement. Part time work is prorated to determine experience for qualification requirements.

Signed in Washington, D.C. on December 5, 1980.

John L. Moore,

President and Chairman, Export-Import Bank of the United States.

[FR Doc. 80-38589 Filed 12-11-80; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-614; BC Docket No. 80-659, File No. BRH-73; BC Docket No. 80-660, File No. BPH-780803]

Western Connecticut Broadcasting Co. and Radio Stamford, Inc.; Applications

In the matter of applications of the Western Connecticut Broadcasting Company for renewal of license of station WYRS-FM, Stamford, Connecticut (BC Docket No. 80-659, File No. BRH-73); and Radio Stamford, Inc., Stamford, Connecticut, Req. 96.7 MHz, Channel 244 2.14 kW, 346 feet, for a construction permit (BC Docket No. 80-660, File No. BPH-780803) Memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: October 21, 1980.

Released: November 6, 1980.

By the Commission:

1. The Commission has before it for consideration the renewal application of the Western Connecticut Broadcasting Company (Western) for commercial radio station WYRS-FM, Stamford, Connecticut, and the application of Radio Stamford, Inc. (RSI) for a construction permit for a commercial FM radio station for Channel 244. The applications are mutually exclusive and must be designated for a comparative hearing.[1]

2. *The RSI Application.* RSI has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21 RR 2d 1507 (1971) in determining the problems, needs and interests of their proposed service area. Consultations with community leaders and the general public must be made within six months prior to filing the application or, if incorporated from a previous study filed by the same applicant for the same station or another station in the same community and there are no significant coverage differences, within one year previous to the tender of the present application. See Questions and Answers 2 and 15 of the *Primer.* RSI, in its present application, attempts to incorporate by reference the consultations included in a 1972 application for a new standard broadcast facility in Stamford. Those interviews were conducted during the month of February, 1970 and, as such, fail to comply with the requirements of the *Primer.* However, by amendment dated July 21, 1980, RSI submitted the results of a limited ascertainment effort intended to update the previous study. The later survey, of itself, does satisfy the requirements for community leader interviews. However, we cannot conclude that RSI has consulted a random sample of the population of Stamford, since the general public survey fails to disclose the number of people interviewed and the method by which the survey was conducted. See Questions and Answers 13(b) and 14 of the *Primer.* Accordingly, a limited ascertainment issue will be specified.

3. *The Western Application.* RSI proposes independent programming while Western proposes to duplicate some of the programming of its commonly-owned station, WSTC(AM). Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the permissible showing will be limited to evidence concerning the benefits to be derived from such proposed duplication which would offset the inefficient use of the spectrum. *Jones T. Sudbury,* 8 FCC 2d 360, 10 RR 2d 114 (1967).

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposed facilities. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to one of the applicants.

5. Except as indicated by the issues specified below, the applicants are legally, financially and otherwise qualified to operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated

[1] RSI previously filed an application which is mutually exclusive with Western's renewal application for station WSTC (AM), Stamford, Connecticut. In an Initial Decision released January 14, 1977 (Docket Nos. 19872-73) Administrative Law Judge Lenore G. Ehrig determined that the public interest would best be served by a grant of the RSI application. Appeals to the Commission by both parties are pending. Both parties are bound by the record in Docket Nos. 19872-73 and are estopped from relitigating the issues in that proceeding, to the extent they may come to be considered herein.

proceeding on the issues specified below.

6. Accordingly, It Is Ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether RSI conducted a general survey of the population of Stamford in accordance with Questions and Answers 13 and 14 of the *Primer*.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly) within the time and manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

9. It Is Further Ordered, That the Secretary of the Commission shall mail to the parties herein, a copy of this Memorandum Opinion and Order by Certified Mail, Return Receipt Requested.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-38526 Filed 12-11-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Uniform Policy for Classification of Consumer Credit Based on Delinquency Status

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of revised policy statement.

SUMMARY: The FDIC has previously adopted a uniform policy for classifying delinquent consumer instalment loans made by commercial banks. It is now expanding the policy to include loans made by mutual savings banks.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Robert M. Browning, 202-389-4345 (commercial banks); John E. Earley, 202-389-4329 (mutual savings banks).

SUPPLEMENTARY INFORMATION: On March 28, 1980, the FDIC published notice of the adoption of a uniform policy for classification of consumer instalment credit based on delinquency status. (45 FR 20555). This policy was developed and recommended to the FDIC by the Federal Financial Institutions Examination Council. The policy, however, was limited to instalment loans made by commercial banks.

Many mutual savings banks also have instalment lending powers. Therefore, at the time it published notice of the adoption of the uniform policy, the FDIC also asked for public comment on whether the policy should be expanded to include instalment loans made by mutual savings banks.

The public was given until May 15, 1980, to comment on the proposal to expand the policy to savings banks. Only two comments were received which addressed the question. One comment came from a commercial bank and its recommended the expansion of the policy to mutual savings banks. The second comment was received from a mutual savings bank and it also felt application of the policy statement to savings banks is appropriate. The second comment, however, felt the classification of adequately secured or insured instalment loans based on delinquency would result in an "unfair hardship" for institutions. The policy statement, however, does recognize this prospect. The introduction to the statement indicates there are instances that warrant exceptions to the delinquency formula. Examples provided in the statement include: loans well secured by collateral and in the process of collection; and loans supported by insurance.

The Federal Home Loan Bank Board has recently adopted regulations which are substantially similar to the uniform policy statement. (45 FR 76095). Expansion of the policy statement to mutual savings banks will result in a more uniform treatment of all classes of insured banks.

In consideration of the foregoing, the uniform policy for the classification of consumer credit is revised to read as follows:

UNIFORM POLICY FOR CLASSIFICATION OF CONSUMER INSTALMENT CREDIT BASED ON DELINQUENCY STATUS

The Policy

Introduction

This examination policy establishes uniform guidelines for the classification of instalment credit based on delinquency status. This use of a formula approach in determining consumer loan classifications parallels, in principle, current industry practices and recognizes the statistical validity of measuring losses predicated on past due status. The policy covers both open- and closed-end credit. Although the three Federal banking agencies have historically relied on delinquency status as a major determinant in classifying consumer instalment credit, no interagency standard has been employed. The policy seeks to provide that standard and should result in more uniform treatment of all classes of insured banks and in more consistent statistical data being developed from bank examination reports.

The general classification policy recognizes that evaluating the quality of a consumer credit portfolio on a loan-by-loan basis is inefficient and unnecessary. For this reason, examiners are expected to adhere closely to the policy in their analysis of consumer credit. Nevertheless, it is recognized that there are instances, particularly where significant amounts are involved, that may warrant exceptions to the formula in order to recognize individual situations where the bank being examined can clearly demonstrate that repayment will occur irrespective of delinquency status. Examples of such situations might include: Loans well secured by collateral and in the process of collection; loans where claims have been filed against solvent estates; and loans supported by valid guarantees or insurance.

General Classification Policy

Examiners will adhere to the following general classification policy during examinations of both commercial banks and mutual savings banks.

(1) Closed-end consumer instalment credit delinquent 120 days or more (5 monthly payments) will be classified loss. Loans delinquent 90 to 119 days (4 monthly payments) will be classified substandard.

(2) Open-end consumer instalment credit delinquent 180 days or more (7 zero billing cycles) will be classified loss. Loans delinquent 90 to 179 days (4 to 6 zero billing cycles) will be classified substandard.

Definitions

The following definitions are intended to provide guidance in application of the general classification policy.

Consumer Instalment Loans.—Includes open- and closed-end credit extended to individuals for household, family and other personal expenditures as defined in the instructions for preparation of call reports. Refer to such instructions for information on any loan where there is doubt as to whether it is covered by the general classification policy.

Delinquency.—Closed-end instalment credit is considered delinquent when the borrower is in arrears two monthly payments. Loans in arrears two monthly payments are considered 30 days delinquent.

Banks generally treat open-end credit differently than closed-end credit in computing delinquency. A bank credit card customer generally has 25 days in which to pay billings before the loan is considered delinquent. If no payment is made between two billing cycles, the balance is considered 5 days delinquent. If no payment is received before issuance of still another statement, the balance is 35 days delinquent technically; however, current practice is to define accounts with two zero billings as 30 days delinquent.

See attached charts which illustrate delinquency computation.

Statutory Bad Debts.—Section 5204, USRS (12 U.S.C. 56), contains the definition for Federal Reserve System member banks of what constitutes bad debts. Accordingly, loans delinquent seven monthly payments, or seven billing cycles, are considered 180 days, or six months, past due and will be considered statutory bad debts, unless they are well secured *and* in the process of collection.

Partial Payments.—A payment equivalent to 90 per cent or more of the contractual payment may be considered a full payment in computing delinquency.

Consumer Instalment Loan Examination Scope

The general classification policy provides that performance is the principal criterion in application of the uniform policy during examinations of banks. In addition to loan classification, examination emphasis should focus on the bank's written consumer lending policy, adherence to stated policy and a review of operating procedures. It is expected that a bank will have written policies suitable for its specific objectives and that they are consistent with prudent banking practices. Procedures for supervising delinquent accounts, including the procedure for renewing and extending past due loans, and automatic charge off policy should be fully described. Internal controls should be in place to assure that the bank's written policy is being followed. Banks lacking written policies or failing to implement or follow established policies effectively should be criticized by examiners in reports of examination.

Closed-End Credit

Due date	Period	Delinquency status	Classification
March 10	March 11 to April 09	Not delinquent	
April 10	April 10 to May 09	30 days or 2 payments	
May 10	May 10 to June 09	60 days or 3 payments	
June 10	June 10 to July 09	90 days or 4 payments	Substandard.
July 10[1]	July 10 to August 09	120 days or 5 payments	Loss
August 10	August 10 to September 09	150 days or 6 payments	Loss
September 10	September 10	180 days or 7 payments	Loss.

Open-End Credit

Statement	Day	Zero billing cycle	Payment record	Days delinquent	Classification
Statement 1	1				
Due 25th	25				
Statement 2	30	1—	No payment	5—	
Statement 3	60	2—	No payment	30—	
Statement 4	90	3—	No payment	60—	
Statement 5	120	4—	No payment	90—	Substandard.
Statement 6	150	5—	No payment	120—	Substandard.
Statement 7	180	6—	No payment	150—	Substandard.
Statement 8[2]	210	7—	No payment	180—	Loss.

[1] Charge-off occurs after borrower is five payments delinquent.
[2] Charge-off occurs on seventh zero billing.

Dated: December 8, 1980.

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-38551 Filed 12-11-80; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Connecting Carrier and Transshipment Agreements

American President Lines, Ltd./China Navigation Connecting Carrier Agreements; Cancellation

Filing Party: R. N. Sanderson, Manager Pricing, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Agreements Nos. 9478 and 9703.

Summary: On November 28, 1980, the Commission received notice of the termination of participation by American President Lines in Agreements Nos. 9478 and 9703. These agreements will be cancelled as of November 28, 1980, the date of receipt of the notice of termination.

American President Lines, Ltd./Bank Line Connecting Carrier Agreement; Cancellation

Filing Party: R. N. Sanderson, Manager Pricing, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Agreement No. 9525.

Summary: On November 28, 1980, the Commission received notice of the termination of participation by American President Line in Agreement No. 9525. The agreement will be cancelled as of November 28, 1980, the date of the notice of termination.

Moore-McCormack Lines, Inc./Royal Netherlands Steamship Company Connecting Carrier Agreement; Cancellation

Filing Party: Hubert F. Carr, Vice President, Moore-McCormack Lines, Inc., 2 Broadway, New York, New York 10004.

Agreement No. 9542.

Summary: On November 3, 1980, the Commission received notice of the termination of participation by Royal Netherlands Steamship Company, in Agreement No. 9542. The agreement will be cancelled as of October 31, 1980, the date of the notice of termination.

Moore-McCormack Lines, Inc./Transporte Maritimo Connecting Carrier Agreement; Cancellation

Filing Party: Hubert F. Carr, Vice President, Moore-McCormack Lines, Inc., 2 Broadway, New York, New York 10004.

Agreement No. 9543.

Summary: On November 3, 1980, the Commission received notice of the termination of participation by Transporte Maritimo in Agreement No. 9543. The agreement will be cancelled as of October 31, 1980, the date of the notice of termination.

American President Lines, Ltd./Everett Orient Transshipment Agreements; Cancellation

Filing Party: R. N. Sanderson, Manager Pricing, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Agreements Nos. 9766, 9841, 9843, 9844, 9917, 9918, 9997, and 10015.

Summary: On November 28, 1980, the Commission received notice of the termination of participation by American President Lines in the above agreements. These agreements will be cancelled as of November 28, 1980, the date of the notice of termination.

States Steamship Co./Everett Orient Line Transshipment Agreement; Cancellation

Filing Party: Mr. W. Huie, Jr., Rates & Conferences Department, States Steamship Company, 320 California Street, San Francisco, California 94108.

Agreement No. 10055.

Summary: On September 26, 1980, the Commission received notice of the termination of participation by States Steamship Co., in Agreement No. 10055. The agreement will be cancelled as of September 26, 1980, the date of the receipt of the notice of termination.

States Steamship Co./Shun Cheong Transshipment Agreement; Cancellation

Filing Party: Mr. W. Huie, Jr., Rates & Conferences Department, States Steamship Company, 320 California Street, San Francisco, California 94108.

Agreement No. 10059.

Summary: On September 26, 1980, the Commission received notice of the termination of participation by States Steamship Co., in Agreement No. 10059. The agreement will be cancelled as of September 26, 1980, the date of the receipt of the notice of termination.

By Order of the Federal Maritime Commission.

Dated: December 8, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-38623 Filed 12-11-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 455-R]

Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a license to maintain a valid bond on file.

The bond issued in favor of Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates, Inc., Suite 1106, New York, NY 10038, FMC No. 455-R, was cancelled effective November 21, 1980.

By letter dated October 28, 1980, Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 455-R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 455-R be and is hereby revoked effective November 21, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 455-R issued to Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register served upon Lehat-Schwartz Shipping Corp., Opera Shipping Corp., Lehat-Schwartz & Associates, Inc.

Daniel J. Connors,

Director, Bureau of Certification & Licensing

[FR Doc. 80-38625 Filed 12-11-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1500-R]

Pegasus International Company (Darwin H. Liao, d.b.a.); Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Pegasus International Company, (Darwin H. Liao, d.b.a.), 311 South Spring St., #512, Los Angeles, CA 90013, FMC No. 1500-R was cancelled effective November 20, 1980.

By letter dated October 21, 1980, Pegasus International Company (Darwin H. Liao, d.b.a.) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1500-R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Pegasus International Company (Darwin H. Liao, d.b.a.) has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1500-R, be and is hereby revoked effective November 20, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1500-R, issued to Pegasus International Company (Darwin H. Liao, d.b.a.) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register served upon Pegasus International Company (Darwin H. Liao, d.b.a.).

Daniel J. Connors,

Director, Bureau of Certification & Licensing.

[FR Doc. 80-38626 Filed 12-11-80; 8:45 am]

BILLING CODE 6730-01-M

Tropical Shipping and Construction Co., Ltd., Application for Permission to Submit Alternative Data

The Federal Maritime Commission hereby gives notice that Tropical Shipping and Construction Co., Ltd. (Tropical) has filed an application with the Commission for permission to submit alternative data pursuant to 46 CFR 512.2(d).

In support of general rate changes, carriers are required by the Commission's General Order 11, Revised, to submit actual and projected financial data. Tropical proposes to submit certain fuel cost and consumption data and a certification as alternative data in support of a 1.3 percent general rate increase which is to become effective as of December 27, 1980.

Interested parties may inspect the data submitted in support of the application at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. Interested parties may submit comments

on the application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 2, 1981. A copy of any comments should also be forwarded to Tropical Shipping and Construction Co., Ltd., c/o John Spillane, 821 Avenue "E", Riviera Beach, Florida 33404, and the statements should indicate that this has been done.

Dated: December 9, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-38624 Filed 12-11-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed "de Novo" Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 6, 1981.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. U.S. BANCORP, Portland, Oregon, (finance company, industrial loan company, insurance agency; Utah): to engage, through its subsidiary, State Finance & Thrift Company, Inc. ("State"), in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to commercial, rediscount and instalment sales contracts; to issue thrift certificates and passbooks and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by State.

State's activities will be performed from an office located in West Jordan, Utah. The geographic area to be served by office will be the community of West Jordan, which is located approximately ten miles Southwest of downtown Salt Lake City. The market area includes portions of Bennion and Taylorsville to the North, Midvale to the West, and South Jordan to the South.

2. WELLS FARGO & COMPANY, San Francisco, California (finance, leasing, investment advisory, and bookkeeping or data processing activities; South Eastern United States): to engage, through its subsidiary, Wells Fargo Realty Advisors, in making, acquiring, and servicing real estate loans and issuing letters of credit related to real estate transactions in land purchase lease back financing; acting as an investment advisor for Wells Fargo Mortgage and Equity Trust, a real estate investment trust, as well as for affiliates of applicant and other investors, regarding real estate investment portfolios; acting as agent, broker or advisor in leasing real property in accordance with the Board's Regulation Y; and providing bookkeeping or data processing services relating to real estate investments of applicant and its affiliates. These activities would be conducted from an office in Atlanta, Georgia, serving primarily the states of Florida, Alabama, South and North Carolina and Georgia.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, December 5, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38553 Filed 12-11-80; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Formation of Bank Holding Company

Central Bancorportion, Inc., Newport, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1) to become a bank holding company by acquiring 81.5 per cent or more of the voting shares of Blue Earth State Bank, Blue Earth, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 6, 1981. Any comment on an application that requests a hearing must include a statement of why presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, Decemer 5, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38555 Filed 12-11-80; 8:45 am]

BILLING CODE 6210-01-M

Colorado National Bankshares, Inc.; Acquisition of Bank; Correction

This notice corrects a previous Federal Register document (FR Doc. 80-37523) published at page 80184 of the issue for Wednesday, December 3, 1980. The name of the applicant in the first sentence is corrected so that the sentence as follows:

Colorado National Bankshares, Inc., Denver, Colorado, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of Arvada State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 5, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38554 Filed 12-11-80; 8:45 am]

BILLING CODE 6210-01-M

Schertz Bancshares Corp.; Formation of Bank Holding Company

Schertz Bancshares Corporation, Schertz, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Schertz Bank & Trust, Schertz, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 5, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38556 Filed 12-11-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 4, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 30, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of revisions to CAB Form 297A, Registration or Amendment Under Part 297 of the Economic Regulations of the Civil Aeronautics Board. This form must be filed by every foreign air freight forwarder and foreign cooperative shippers' association before the start of operations as an indirect air carrier, pursuant to Part 297 of the Board's Economic Regulations and Section 402 of the Federal Aviation Act of 1958, as amended. The revisions include requesting the telephone number and area code in questions 1 and 4 and editorial changes to question 8. The major change is that question 3 has been revised so that in addition to listing the names and citizenship of those with 10 percent or more of stock, the percentage of stock owned or held by each must be shown.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-38477 Filed 12-11-80; 8:45 am]

BILLING CODE 1610-01-M

Soliciting Nominations to Railroad Accounting Principles Board

AGENCY: U.S. General Accounting Office.

ACTION: Notice of solicitation of nominations to the Railroad Accounting Principles Board.

SUMMARY: Pursuant to 49 U.S.C. 11161 (a)(2) as amended by Pub. L. 96-448, Sec. 302 (a) October 14, 1980, 94 Stat. 1934, Staggers Rail Act of 1980, the Comptroller General of the United States is soliciting nominations to the Railroad Accounting Principles Board. Nominations will be considered by the Comptroller General in appointing the Board.

DATE: Nominations should be submitted by January 15, 1981.

ADDRESS: The names and background of nominees should be sent to Mr. Elmer B. Staats, Comptroller General of the United States, 441 G Street N.W., Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Litke, (202) 275-5293.

SUPPLEMENTARY INFORMATION: The Staggers Rail Act of 1980 designates the Comptroller General as Chairman of the Board and directs him to appoint six other members to the Board. The Board is required to promulgate within 2 years of the date of the Staggers Rail Act of 1980, October 14, 1980, principles governing the determination of economically accurate railroad costs for large railroads for use in specific regulatory proceedings.

The Staggers Rail Act of 1980 requires that the Comptroller General appoint the six other board members as follows: one each from the accounting profession, economics profession, the railroad industry, and the Interstate Commerce Commission; and one representative each of major rail shippers and small rail shippers. Each member is required to be well qualified for the Board by virtue of experience in or knowledge of rate regulation, accounting, or cost determinations. The term of office for each Board member will be 3 years. The Board is expected to meet several times a year for a total of about 30 days a year. Each Board member will be paid at a rate equal to 1/260 of the rte prescribed for Level IV of the Executive Schedule, under section 5313 of title 5, for each day (including travel time) in which the member is engaged in the actual performance of duties vested in the Board.

In addition to this notice, the Comptroller General has asked for nominations to the Board in letters to the following organizations: National Council of Farmer Cooperatives, National Industrial Traffic League, American Farm Bureau Federation, Edison Electric Institute, The Fertilizer Institute, National Coal Association, American Institute of Certified Public Accountants, Association of American Railroads, American Short Line Railroad Association, American Institute for Shippers' Associations, National Rural Electric Cooperative Association, American Public Power Association, Western Fuels Association, Association of Government Accountants, American Accounting Association, Financial Executives Institute, American Economic Association, National Association of Accountants, Brookings Institution, American Enterprise Institute for Public Policy Reserach,

Interstate Commerce Commission, and Department of Transportation.

The Comptroller General has also solicited nominations through notices in various industry and trade publications.

Elmer B. Staats,

Comptroller General of the United States.

[FR Doc. 80-38549 Filed 12-11-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80M-0465]

Barnes-Hind Pharmaceuticals, Inc., Premarket Approval of Barnes-Hind R Two-Part Chemical Disinfection Regimen for Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Barnes-Hind[R] Two-Part Chemical Disinfection Regimen for Contact Lenses sponsored by Barnes-Hind Pharmaceuticals, Inc., Sunnyvale, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 12, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Barnes-Hind Pharmaceuticals, Inc., Sunnyvale, CA, submitted an application for premarket approval of Barnes-Hind [R] Two-Part Chemical Disinfection Regimen for Contact Lenses to FDA on December 13, 1979. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 1, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as Class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for Class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified which the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Barnes-Hind[R] Two-Part Chemical Disinfection Regimen for Contact Lenses states that the solution is designed for daily use with soft (hydrophilic) contact lenses or with lenses made from other new polymers listed on the product labeling. Sponsors of any soft contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 12, 1981, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38238 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

Endocrinologic and Metabolic Drugs Advisory Committee and Miscellaneous Internal Drug Products Panel; 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:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. January 12 and 13, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, January 12, 9 a.m. to 10 a.m.; open committee discussion, January 12, 10 a.m. to 5 p.m., January 13, 9 a.m. to 5 p.m.; A. T. Gregoire, Bureau of Drugs (HFD-130), Food and Drug Administration, 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 endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the efficacy of Factrel (NDA 18-123) as a diagnostic agent; regulatory criteria for evaluation of lipid altering agents; Clofibrate (NDA 16-099)—World Health Organization mortality followup; and proposed clinical guidelines for male contraceptives.

Applications for reimbursement. Must be received by January 2, 1981.

Miscellaneous Internal Drug Products Panel

Date, time, and place. January 31—February 1, 9 a.m., Holiday Inn, Chevy Chase, MD.

Type of meeting and contact person. Open public hearing, January 31, 9 a.m. to 10 a.m.; open committee discussion, January 31, 10 a.m. to 4:30 p.m., February 1, 8 a.m. to 3 p.m.; John R. Short, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6156.

General function of the Committee. The Committee reviews and evaluates 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 wish to make such a presentation should notify the contact person before January 26, 1981, 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 pursuant to 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.

Applications for reimbursement. Must be received by January 12, 1981.

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 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 requested from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meeting(s) listed above should be sent to the Office of Consumer Affairs (HFE-88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch (formerly the Hearing Clerk's office) as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301-443-3170.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meeting(s) announced in this notice in the docket for this notice.

Dated: December 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38324 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel and Gastrointestinal Drugs Advisory Committee

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:

Gastrointestinal Drugs Advisory Committee

Date, time, and place. January 12 and 13, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, January 12, 9 a.m. to 10 a.m.; open committee discussion, January 12, 10 a.m. to 12 m., closed presentation of data, January 12, 1 p.m. to 5 p.m.; open committee discussion, January 13, 9 a.m. to 3 p.m.; Joan C Standaert, Bureau of Drugs (HFD-110), Food and Drug Administration, 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 gastrointestinal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Metoclopramide (NDA 17-854) for use in gastroesophageal reflux disease, and animal studies with H_2 blockers.

Closed presentation of data. The Committee will discuss Tymtran (NDA 18-296); Chenodeoxycholic Acid (NDA 18-513); Chymex (Bentironide) (NDA 18-366); Cimetidine for gastric ulcer (NDA 17-920); and Kinevac (Sincalide) (NDA 17-697). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by January 2, 1981.

Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel

Date, time, and place. January 15 and 16, 9 a.m., Silver Room North, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, January 15, 9 a.m. to 10 a.m.; open committee discussion, January 15, 10 a.m. to 3 p.m.; closed committee deliberations, January 15, 3 p.m. to 4 p.m.; open committee discussion, January 15, 4 p.m. to 5 p.m., January 16, 9 a.m. to 5 p.m.; Eugene W. Rice, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present, data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make formal presentations should notify the contact person by January 5, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss clinical data concerning premarket approval applications for test systems used in the management of advanced breast cancer patients: P800061—New England Nuclear, RIANEN™ (^{3}H) Estrogen Receptor Assay Kit; P800062—New England Nuclear, RIANEN™ (^{125}I) Estrogen Receptor Assay Kit (January 15); and will review three petitions for reclassification submitted by Sandare Chemical Co., Inc.: F790010 Sandare Nitroprusside Test Procedure; F790011 Sandare Silver-Nitroprusside Test Procedure; and F800001 Sandare Methylmalonic Aciduria Test Procedure (January 16).

Closed committee deliberations. The Committee will review and discuss premarket approval applications P800061 and P800062. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by January 5, 1981.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing 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 requested from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so desginated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of

personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meeting(s) listed above should be sent to the Office of Consumer Affairs (HFE-88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch (formerly the Hearing Clerk's office) as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301-443-3170.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meeting(s) announced in this notice in the docket for this notice.

Dated: December 5, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-38525 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

Technical Electronic Product Radiation Safety Standards Committee; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee by the Commissioner of Food and Drugs for an additional period of 2 years beyond December 24, 1980. The charter for this Committee will expire December 24, 1982.

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

Dated: December 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38523 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77P-0293]

Tomato Juice Deviating From Identity Standard; Further Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the further amendment of a temporary permit issued to Juice Bowl Products, Inc., to market test tomato juice from concentrate. This action enables Juice Bowl Products, Inc., to improve the quality of information to be derived from the market test by expanding the number of container sizes available to the consumer.

DATES: This amended permit is effective December 12, 1980 and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal to amend the identity standard for tomato juice, which was published in the Federal Register of May 9, 1978 (43 FR 19864), or 30 days after a negative order ruling on the proposal, which ever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued to Juice Bowl Products, Inc., under 21 CFR 130.17, to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the Federal Register of March 28, 1978 (43 FR 12949). Notice of an extension and amendment of the permit was published in the Federal Register of May 15, 1979 (44 FR 28421). The amended permit provided for the market testing of 3,500 cases of twelve 46-ounce cans and 17,000 cases of forty-eight 6-ounce cans of tomato juice from concentrate per month in all States except Alaska, Hawaii, Montana, North Dakota, Oregon, and South Dakota.

Juice Bowl Products, Inc., has requested that its existing temporary permit be further amended to provide for market testing on a monthly basis of 20,000 cases of twenty-four 12-ounce cans of tomato juice from concentrate. The company stated that "To date, the consumer acceptance of Juice Bowl's 6-ounce and 46-ounce product has been excellent. Juice Bowl now desires to market this product in a 12-ounce size, and compare the sales of the medium-sized can with the larger and smaller cans." Other than this single modification, Juice Bowl Products, Inc., has requested that the remainder of its current market permit remain in effect.

FDA concludes that it will be in the interest of consumers to permit market testing of 20,000 cases of twenty-four 12-ounce cans of tomato juice from concentrate per month in all States except Alaska, Hawaii, Montana, North Dakota, Oregon, and South Dakota, as requested.

This amended permit is effective on December 12, 1980, and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: December 4, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-38239 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgment of Jamestown Clallam as an Indian Tribe

December 1, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(h) notice is hereby given that the Assistant Secretary acknowledges that the Jamestown Clallam Tribe of Indians, c/o Ron Allen Route 5, Box 687, Port Angeles, Washington 98392, exists as an Indian tribe. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 54.7.

The Jamestown Clallam Tribe of Indians is the modern successor of those Clallam Indians who lived around the Dungeness, Washington area, signed the 1855 Point No Point Treaty with the United States and formed the community of Jamestown in 1874.

Evidence indicates the Jamestown Clallam community and its predecessors have existed autonomously since first contact, with a series of leaders who represented the group or its predecessors in its dealings with outside organizations and who both responded to and influenced the group in matters of importance. The membership is unquestionably of Clallam descent. No evidence was found that the members of the group are members of any other Indian tribes, or that the group or its members have been terminated or forbidden the Federal relationship by an Act of Congress.

Proposed findings that the Jamestown Clallam exist as an Indian tribe were published on page 36525 of the **Federal Register** on May 30, 1980. Interested parties were given 120 days in which to submit factual and legal arguments to rebut evidence used to support the findings that the Jamestown Clallam Tribe of Indians exists as an Indian tribe. The 120-day comment period ended September 26. No comments were received concerning the proposed findings.

The determination is final and will become effective on February 10, 1981, unless the Secretary of the Interior requests the determination be reconsidered pursuant to 25 CFR 54.10.

Thomas W. Fredericks,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-38591 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-02-M

Cancellation of Probate Fees

December 4, 1980.

With enactment of Pub. L. 96-363, the statutory requirements to assess probate fees on Indian trust and restricted estates removed. The following action cancels all unpaid probates fees assessed prior to Pub. L.96-363, the sum of which falls below the total estimated administrative cost required to collect such fees. This action is taken pursuant to authority delegated by the Secretary of the Inerior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Pursuant to the authority contained in section 2(b) of the Act of September 26, 1980, Pub. L. 96-363, all probate fees assessed under the second and third provisions contained in the paragraph entitled "Determining Heirs" in the Act of January 24, 1923 (42 Stat, 1185; 25 U.S.C. 377), as amended, and section 2 of the Act of December 24, 1942 (56 Stat. 1080, 1081; 25 U.S.C. 375b), which heretofore have not been paid into the United States Treasury are hereby cancelled.

Philip S. Deloria,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-38496 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Baker District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that a meeting of the Baker District Advisory Council will be held on January 2, 1981, as a followup to the December 2, 1980 meeting that was cancelled due to lack of a quorum attending.

The meeting will begin at 9 a.m. in the Conference Room on the second floor of the Federal Building, Baker, Oregon.

The agenda for the meeting will include:

1. Approve minutes of the September 16 and October 16, 1980 meetings.
2. Review and make recommendations on the Baker County Public Land and Economic Dependency Study.
3. Review and make recommendations on the preliminary draft Rangeland Management Program Document (RMPD) covering the Baker Resource Area portion of the Ironside Grazing Management Environmental Impact Statement area.
4. Public comments.
5. Arrangements for the next council meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 2 and 3 p.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Federal Building, P.O. Box 987, Baker, Oregon 97814, telephone 503-523-6391. Ext. 281, by 12 noon, Tuesday, January 20, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A report of the Council meeting will be maintained at the District Office and be made available for public inspection and reproduction at the cost of duplication.

Gordon R. Staker,

District Manager.

December 3, 1980.

[FR Doc. 80-38467 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Multiple Use Advisory Council; Meeting

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Carson City District Multiple Use Advisory Council.

DATE: January 9, 1981—9:30 a.m.

ADDRESS: District Office, 1050 East William Street, Suite 335, Carson City, Nevada 89701.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, Carson City District, (702) 882-1631.

SUPPLEMENTARY INFORMATION: The Council is chartered to provide citizen counsel and advice to the Carson City District Manager regarding planning and management of public lands and resources within the District. The agenda for this meeting will include consideration of the Reno and Lahontan planning and environmental impact statement projects, the realty program and the wild horse and burro management program.

The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Council at 2:30 p.m.

Thomas J. Owen,

District Manager.

December 5, 1980.

[FR Doc. 80-38498 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-84-M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory

Council will meet January 12 and 13, 1981. The meeting will be held at the Union Plaza Hotel, 1 Main Street, Las Vegas, Nevada.

The meeting hours will be 8:30 a.m. to 5:30 p.m. on Monday, the 12th, and 8:00 a.m. to 4;00 p.m. on Tuesday, the 13th. A summary of the agenda for the 2-day meeting is: *Monday, January 12:* (1) An overview, by Bureau of Land Management (BLM) Director Frank Gregg, of recent BLM and Department of the Interior actions concerning the public lands; (2) Energy development of the public lands; (3) BLM's Resource management planning and program planning as bases for public lands energy development decisions; (4) The coal development program as a case example; (5) Multiple-energy resource development; (6) Panel discussion on BLM's roles in public-lands energy development, focusing on current issues and options as viewed by State and local government representatives and from other prespectives outside of BLM; and (7) Public statements.

Tuesday, January 13: (1) Council discussion of public-lands energy development issues and options raised during Monday's meeting; (2) Election of Council officers for 1981; and (3) Council old and new business, including agenda for the Councils next meeting scheduled for April 21 and 22 in Washington, D.C.

DATE: January 12 and 13, 1981—Council Meeting. January 12, 1981—Public Statements.

ADDRESS: Copies of public statements may be mailed in advance of the meeting to: Craig Ritchey, Chairman, National Public Lands Advisory Council, c/o Director (660), Bureau of Land Management, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or c/o Robert E. Stewart, Public Affairs Officer, BLM Nevada State Office, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89509.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Office of Cooperative Relations (660), at BLM's Washington Office, telephone (202) 343-8947, or Robert Stewart, BLM Nevada State Office, telephone (702) 470-5311. A detailed agenda for this meeting may be requested from Ms. Slater or Mr. Stewart at the Addresses or telephone numbers given above.

Background

The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, as to policies, plans, and programs for management of the public lands and related resources administered by the Bureau. Meetings of the council are open to the public.

Public Statements

Opportunity will be provided for members of the public to make oral statements to the Council, from 4:00 to 5:30 p.m., Monday, January 12, regarding topics on the meeting agenda. Summaries of oral presentations should be submitted to the Council in written form, also. Depending upon the number of people who wish to speak, it may be necessary to limit the length of oral presentations. Those who wish to address the Council should, prior to 2:00 p.m. on Monday, January 12, inform the Council Chairman of their request, and provide their name, organization represented (if any), address and phone number, and issue or issues to be addressed. In addition, written statements alone may be presented to the Council on any national public-lands issues. The Council encourages early filing or mailing of such summaries and statements, and of requests to address the Council.

Dated: December 8, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 80-38478 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board Mid-Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No 92-463).

Name: Mid-Atlantic Technical Working Group

Dates: January 13-14, 1981

Place: Benjamin West Suite, Holiday Inn-Center City, 18th and Market Streets, Philadelphia, Pennsylvania

Times: January 13—1:00 p.m. to 5:00 p.m.; January 14—9:00 a.m. to 4:30 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of New York through North Carolina, the petroleum industry, and other private interests.

Agenda: (January 13)—Presentation of the Draft Hudson Canyon Transportation Management Plan, discussion of the Sale No. 59 DEIS, presentation on tilefish habitats; (January 14)—Working group discussion of Sale No. 59 DEIS and Secretarial Issue Document, and the Hudson Canyon Transportation Management Plan.

The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding matters on the agenda should contact Richard Barnett of the New York OCS Office (212-264-1061) by January 6, 1981. Written statements should be submitted by January 21 to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by March 11, 1981 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 80-38499 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Fort Pickens Unit, Gulf Islands National Seashore, Florida; Development Concept Plan; Availability of Finding of No Significant Impact and Statement of Findings

In June 1980 the National Park Service completed and placed on public review an Environmental Assessment on the Development Concept Plan for the Fort Pickens Unit of Gulf Islands National Seashore.

After reviewing the alternatives and their impacts presented in the assessment and after public comment thereon, the National Park Service has made a Finding of No Significant Impact relative to the development of the Fort Pickens Unit; therefore, an environmental impact statement will not be prepared. A Statement of Findings relative to floodplain use is included with this Finding of No Significant Impact.

Anyone needing additional information or desiring a copy of the Finding of No Significant Impact and Statement of Findings should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303 or the Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561.

No projects indicated in the selected alternative will be begun until the 30-day review period has expired.

Dated: December 4, 1980.

L. Boyd Finch,

Acting Regional Director, Southeast Region.

[FR Doc. 80-38523 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-70-M

[A18]

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on January 6, 1981 at 7:30 p.m. at the Ventura City Hall in the City Council Chambers, 501 Poli Street, Ventura, CA.

The Advisory Commission was established by Public Law 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Mike Levett
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace
Ms. Marilyn Whaley Winters

The major agenda items include the Superintendent's status report, an update from the General Management Plan committees, and a discussion on the interim report regarding current status of local, state and federal parklands within the Santa Monica Mountains National Recreation Area.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by February 6, 1981, at the above address.

Dated: December 1, 1980.

Robert S. Chandler,

Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 80-38527 Filed 12-11-80; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 203]

Motor Carriers; Assignment of Hearings

December 8, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124141 (Sub-30F), Julian Martin, Inc., now assigned for prehearing conference on November 17, 1980, at Washington, D.C. is cancelled.

MC-C-10641, Capitol Bus Company V Newhurst, Inc., now being assigned for hearing on January 7, 1981 (3 days), at Harrisburg, PA, location of hearing room will be designated later.

MC 119787 (Sub-10F), F. W. Groves Trucking Company, now being assigned for hearing on January 6, 1981 (4 days), at Wilmington, NC, location of hearing room will be designated later.

MC 148079 (Sub-1F), Frye Trucking Company, Inc., now being assigned for hearing on January 12, 1981 (2 days), at Raleigh, NC, location of hearing room will be designated later.

MC 146946 (Sub-1F), Linten Heavy Haulers, now assigned for hearing on December 9, 1980 (9 days), at Los Angeles, CA, will be held in the Los Angeles County Court House, 111 North Hill Street, Room 203.

MC 147942 (Sub-2F), M & L Truck Line, Inc., now assigned for hearing on December 2, 1980 (4 days), at Memphis, TN, will be held in the Hilton Inn, Memphis Airport, 2240 Democrat Road.

MC 92692 (Sub-7F), Freeport Fast Freight, Inc., now assigned for hearing on December 4, 1980 (2 days), at Chicago, IL, will be held at the Midland Hotel, 172 West Adams.

MC 72997 (Sub-27F), Liberty Trucking Company, now assigned for hearing on December 8, 1980 (5 days), at Chicago, IL, will be held at the Midland Hotel, 172 West Adams.

MC 11722 (Sub-72F), Brader Hauling Service, Inc., now assigned for hearing on December 11, 1980 (2 days), at Seattle, WA, will be held in Room 3064, National Labor Relation Board, Federal Building, 915 Second Avenue.

MC 144315 (Sub-5F), Port City Leasing, Inc., now assigned for hearing on December 15, 1980 (2 days), at Seattle, WA, will be held in Room 514, Federal Building, National Labor Relation Board, 915 Second Avenue.

MC 140665 (Sub-59F), Prime, Inc., now assigned for hearing on December 17, 1980, at Seattle, WA, will be held in Room 514, Federal Building, National Labor Relation Board, 915 Second Avenue.

MC 114334 (Sub-57F), Builders Transportation Co., now assigned for hearing on December 15, 1980, at St. Louis, MO, will be held at the Mart Building, Conference Room 2-A, 405 S. Tucker Blvd.

MC 69402 (Sub-3F), Bee Line Trucking Company, Inc., now assigned for hearing on December 17, 1980 (3 days), at St. Louis, MO, will be held at the Mart Building, Conference Room 2-A, 405 S. Tucker Blvd.

MC 34631 (Sub-6F), A. Arnold & Son Transfer & Storage Co., Inc., now assigned for hearing on December 10, 1980, at Columbus, OH, will be held in Room No. 426, Federal Building & U.S. Court House, 85 Marconi Blvd.

MC 135524 (Sub-48F), G. F. Trucking Co., now assigned for hearing on December 11, 1980, at Columbus, OH, will be held in Room No. 426, Federal Building & U.S. Court House, 85 Marconi, Blvd.

MC-F-14171, Columbus Retail Merchants Delivery, Inc.—Purchase—Reed Lines, Inc., MC 14251 (Sub-7F), Columbus Retail Merchants Delivery, Inc., now assigned for hearing on December 15, 1980, at Columbus, OH, will be held in Room No. 426, Federal Building & U.S. Court House, 85 Marconi Blvd.

MC 144969 (Sub-12F), Wheaton Cartage, Co., now assigned for hearing on December 4, 1980, at Chicago, IL, is transferred to Modified Procedure.

MCX 148669, Puget Air Delivery, is transferred to Modified Procedure.

MC 139112 (Sub-21F), Calex Express, Inc., now assigned for Prehearing Conference on December 3, 1980, at Washington, D.C., is transferred to Modified Procedure.

MC 105120 (Sub-20F), Freightways Express, Inc., now assigned for hearing on December 9, 1980, at Memphis, TN, is transferred to Modified Procedure.

MC 151089 (Sub-2F), Blue Ribbon Trucking, Inc., now assigned for Prehearing Conference on November 21, 1980, at Washington, D.C., is canceled and application dismissed.

MC 148657F, Raymond & Higgins Transportation Co., Inc., now assigned for hearing on December 10, 1980 (3 days), at Providence, RI, will be held in Room No. 234, John O. Pastore, Federal Building & Post Office, 37 Exchange Towers.

MC-C-8879, Bowman Transportation, Inc. ET AL V. Central Motor Express, Inc., now assigned for hearing on January 6, 1981 (4 days), at Louisville, KY, will be held at the Louisville Inn, 120 West Broadway.

MC 110817 (Sub-29F), E. L. Farmer & Company, now assigned for hearing on December 2, 1980 at Houston, TX is canceled and application dismissed.

MC 14215 (Sub-41F), Smith Truck Service, Inc., now assigned for hearing on January 5, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117940 (Sub-281F), Nationwide Carriers, Inc., now assigned for hearing on January 13, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 143662 (Sub-3F), Gene Voigt Trucking, Inc., now assigned for hearing on December 4, 1980, at Madison, WI, is transferred to Modified Procedure.

MC 73165 (Sub-497F), Eagle Motor Lines, Inc., now assigned for Prehearing Conference on November 20, 1980, at Washington, D.C., is transferred to Modified Procedure.

MC 2835 (Sub-43F), Adirondack Transit Lines, Inc., now assigned for hearing on December 9, 1980, at Plattsburgh, NY, will be held in the Court Room—Third Floor, Clinton County Government Center, Margaret Street.

MC 94201 (Sub-179F), MC 94201 (Sub-181F), Bowman Transportation, Inc., now assigned for hearing on December 8, 1980 (5 days), at Memphis, TN, will be held at the Holiday Inn International Airport, 1441 E. Brooks Road.

MC 94201 (Sub-179F), MC 94201 (Sub-181F), Bowman Transportation, Inc., now assigned for continued hearing on January 6, 1981 (6 days), at Dallas, TX, will be held at the Holiday Inn Downtown, 1015 Elm Street.

MC 94201 (Sub-179F), MC 94201 (Sub-181F), Bowman Transportation, Inc., now assigned for further continued hearing on February 24, 1981 (4 days), at Dallas, TX, in a hearing room to be later designated.

MC 119988 (Sub-246F), Great Western Trucking Co., Inc., now assigned for hearing on January 14, 1981 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 129908 (Sub-56F), American Farm Lines, Inc., now assigned for hearing on January 15, 1981 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 144122 (Sub-51F), Carretta Trucking, Inc., now assigned for hearing on December 2, 1980 (1 day), at New York, NY, will be held in Room No. 602–A, 6 World Trade Center, Vesey Street.

MC 148793 (Sub-3F), M & L Messenger Service, Inc., now assigned for hearing on December 3, 1980 (3 days), at New york, NY, will be held in Room No. 602–A, 6 World Trade Center, Vesey Street.

MC 125433 (Sub-428F), F-B Truck Line Company, now assigned for Prehearing Conference on November 21, 1980, at Washington, D.C., is transferred to Modified Procedure.

MC 105006 (Sub-11F), L. L. Smith Trucking, MC 146863 (Sub-2F), Webb's Hot Service, Inc., MC 147351 (Sub-2F), Yor Enterproses, Inc. d.b.a. Diamond Y Hot Shot, MC 147391 (Sub-2F), Loyd Rudy d.b.a. Loyd's Hot Shot Service, now assigned for hearing on December 9, 1980 (9 days), at Casper, WY, will be held at the Federal Building, 2nd Floor, 111 South Walcott.

MC 730 (Sub-440F), Pacific Intermountain Express Co., now assigned for hearing on December 2, 1980 (1 day), at St. Louis, MO, will be held at the Mart Building, Conference Room 2–A, 405 S. Tucker Blvd.

MC 128270 (Sub-35F), Rediehs Interstate, Inc., now assigned for hearing on December 8, 1980 (1 day), at St. Louis, MO, will be held at the Mart Building, Conference Room 2–A, 405 S. Tucker Blvd.

MC 119656 (Sub-62F), North Express, Inc., now assigned for hearing on December 9, 1980 (2 days), at St. Louis, MO, will be held at the Mart Building, Conference Room 2–A, 405 S. Tucker Blvd.

MC–C–8619, Transit of New Jersey; Asbury Park-New York Transit Corporation; Decamp Bus Lines; Hudson Bus Transportation Company; Hudson Transit Lines, Inc.; Lakeland Bus Lines, Inc.; Maplewood Equipment Company; New York Keansburg-Long Branch Bus Company, Inc., Suburban Transit Corporation, and Port Authority, now assigned for Prehearing Conference on December 2, 1980, at New York, NY, is postponed to October 6, 1981 at New York, NY.

MC 115331 (Sub-507F), Truck Transport Incorporated, now assigned for hearing on December 3, 1980 at, St. Louis, MO, is canceled and application dismissed.

AB–1 (Sub-102F), Chicago, and North Western Transportation Company—Abandonment—Near Wisconsin Rapids and Wausau, WI, now assigned for hearing on January 13, 1981 (9 days), at Wausau, WI, in a hearing room to be later designated.

MC 35628 (Sub-410F), Interstate Motor Freight System, now assigned for hearing on December 9, 1980 (9 days), at Albany, NY, will be held in Room G–18, Building 4, State Campus, New York State Dept. of Transportation, 1220 Washington Avenue.

MC 44605 (Sub-52F), Milne Truck Lines, Inc., now assigned for continued hearing on January 20, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106194 (Sub-39F), Horn Transportation, Inc., now assigned for hearing on December 8, 1980, at Denver, CO, is canceled and applicaiton is dismissed.

MC 112304 (Sub-222F), Ace Doran Hauling & Rigging Co., is transferred to Modified Procedure.

MC 108937 (Sub-65F), Murphy Motor Freight LInes, Inc., now assigned for Prehearing Conference on December 3, 1980, at Washington, D.C., is transferred to Modified Procedure.

MC 130654F, Pacific Relocating Services, Inc., now assigned for hearing on January 15, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 113651 (Sub-304F), Indiana Refrigerator Lines, Inc., now assigned for hearing on January 13, 1981 (4 days), at New York, NY, in a hearing room to be later designated.

MC 125433 (Sub-424F), F-B Truck Line Company, now assigned for Prehearing Conference on November 21, 1980, at Washington, D.C., is tranferred to Modified Procedure.

MC 111302 (Sub-169F), Highway Transport, Inc., now assigned for hearing on December 8, 1980, at Atlanta, GA, is canceled and application is dismissed.

MC 70151 (Sub-56F), United Trucking Service, Inc., now assigned for hearing on December 2, 1980, at Detroit, MI, is canceled and application dismissed.

MC 136012 (Sub-6F), United States Transportation, Inc., now assigned for hearing on December 15, 1980 at Cincinnati, OH is postponed to January 12, 1981 (3 days), at Cincinnati, OH, in a hearing room to be later designated.

MC 119493 (Sub-386F), Monkem Company, Inc., now assigned for hearing January 12, 1981, (1 day), at St. Louis, MO, in a hearing room to be later designated.

MC 20992 (Sub-62F), Dotseth Truck Line, Inc., now assigned for hearing December 9, 1980, at Washinton, D.C., is now changed to a Pre-Hearing Conference on December 9, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115826 (Sub-511F), W. J. Digby, Inc., now assigned for hearing on December 5, 1980 (1 day), at Denver, CO, in Division 2, Court of Appeals, 1931 Stout Street.

MC 146378 (Sub-5F), Paul Harpole Truck Service, now assigned for hearing on December 3, 1980 (1 day), at Chicago, IL, will be held in Room 350, 230 South Dearborn Street.

MC 114552 (Sub-249F), Senn Trucking Company, now assigned for hearing on February 23, 1981, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 151172F, Executive Coach Leasing, Inc., now assigned for hearing on January 26, 1981 (5 days), at Indianapolis, IN, in a hearing room to be later designated.

MC 124988 (Sub-14F), Truck Service Company, now assigned for hearing on December 10, 1980 (3 days), at Springfield, MO, will be held in Room 315, City Hall, 830 Boonville Avenue.

MC 133689 (Sub-322F), Overland Express, Inc., now assigned for hearing on January 19, 1981, at St. Paul, MN, is postponed to February 23, 1981 (1 week), at St. Paul, MN, in a hearing room to be later designated.

MC 145129 (Sub-4F), Whitaker Transportation Company, Inc., now assigned for hearing on January 26, 1981 (5 days), at Chattanooga, TN, in a hearing room to be later designated.

MC 35320 (Sub-311F), T.I.M.E.-DC, Inc., now assigned for hearing on January 27, 1981 (9 days), at Houston, TX, in a hearing room to be later designated.

MC–C–10540, V.I.P. Limousine, Inc., v. Rudy's Limousine Service, Inc., MC 150181F, Rudy's Limousine Service, Inc., now assigned for hearing on January 20, 1981 (4 days), at Stamford, CT, in a hearing room to be later designated.

MC 141092 (Sub-2F), R. R. Hopkins Truck Line, Inc., now assigned for hearing on December 4, 1980, at Kansas City, MO, is transferred to Modified Procedure.

MC 147522 (Sub-1F), George Joseph Brzezinski, d.b.a. Shur-Way Moving & Cartage Company, now assigned for hearing on December 8, 1980 (1 week), at Chicago, IL, will be held in Room 350, 230 South Dearborn Street.

MC 126551 (Sub-5F), Philboro Coach Corp., a corp., now assigned January 21, 1981, at Philadelphia, PA, is cancelled and application dismissed.

MC 144622 (Sub-178F), Glenn Brothers Trucking, Inc., now assigned January 21, 1981, at Little Rock, AR, is cancelled and application is dismissed.

MC–C–8917, Dignan Trucking, Inc., et al. v. Southern Maryland Transportation Co., Inc., complaint dismissed.

MC 142715 (Sub-95F), Lenertz, Inc., now assigned January 9, 1981, is cancelled and transferred to modified procedure.

MC 148827 (Sub-1F), David Alger, d.b.a. D & C Transportation, now being assigned hearing January 8, 1981 (2 days), at Montpelier, VT, before Joint Board No. 133 in a hearing room to be later designated.
MC 139482 (Sub-122F), New Ulm Freight Lines, Inc., now assigned for hearing on January 5, 1981 (1 day), at St. Paul, MN, is cancelled and application dismissed.
MC 105733 (Sub-72F), H. R. Ritter Trucking Co., Inc., is transferred to modified procedure.
MC 2900 (Sub-425F), Ryder Truck Lines, Inc., now assigned for hearing on December 10, 1980, at Washington, DC, is transferred to modified procedure.
MC 147568F, Sam Broussard Trucking Co., Inc., now assigned for hearing on December 1, 1980, at New Orleans, LA, is transferred to modified procedure.
MC 59856 (Sub-89F), Salt Creek Freightways, a corporation, now being assigned hearing January 5, 1981 (2 weeks), at Salt lake City, UT, before Joint Board No. 85, in a hearing room to be later designated.
MC 124988 (Sub-14F), Truck Service Company, now assigned for hearing on December 10, 1980 (3 days), at Springfield, MO, will be held in Room 315, City Hall, 830 Boonville Avenue.
MC 105006 (Sub-11F), L. L. Smith Trucking, now assigned for hearing on December 9, 1980, at Casper, WY, is postponed to January 12, 1981 (1 week), at Casper, WY, in a hearing room to be later designated.
MC 106644 (Sub-287F), Superior Trucking Company, Inc., now assigned for further Prehearing Conference on November 25, 1980, at Washington, D.C., is transferred to Modified Procedure.
MC 92692 (Sub-7F), Freeport Fast Freight, Inc., now assigned for hearing on December 4, 1980, at Chicago, IL, is transferred to Modified Procedure.
MC 113908 (Sub-495F), Erickson Transport Corp., now assigned for hearing on December 8, 1980, at Kansas City, MO, is transferred to Modified Procedure.
MC 61016 (Sub-57F), Peter Pan Bus Lines, Inc., now being assigned hearing on January 14, 1981 (3 days), at Springfield, MA, before Joint Board No. 69 in a hearing room to be later designated.
MC 139763 (Sub-3F), Oak Harbor Freight Lines, Inc., now assigned for hearing on January 26, 1981 (2 weeks), at Seattle, WA, in a hearing room to be later designated.
MC 146742 (Sub-2F), H & F Trucking Company, Inc., now being assigned hearing January 21, 1981 (3 days), at Chicago, IL, in a hearing room to be later designated.
MC 144315 (Sub-5F), Port City Leasing, Inc., now assigned December 15, 1980, at Seattle, WA, is postponed indefinitely.
MC 148657F, Raymond & Higgins Transportation Co., Inc., now assigned December 10, 1980, at Providence, RI, is cancelled and application dismissed.
MC 145733 (Sub-3F), American Auto Shippers, Inc., now being assigned prehearing conference on January 12, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 138308 (Sub-109F), KLM, Inc., now assigned December 11, 1980, at Washington, D.C. is cancelled and transferred to modified procedure.
MC 26396 (Sub-368F), The Waggoners Trucking, a corporation, now being assigned further prehearing conference January 12, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 108223 (Sub-31F), Century Mercury Motor Freight, now assigned January 6, 1981, at St. Paul, MN, is vacated.
MC 140511 (Sub-7F), Autolog Corporation, a Delaware corp., now assigned January 20, 1981, at New York, NY, is cancelled and application is dismissed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38566 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to this Commission's policy of simplifying grants of operation authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3-099

Decided: December 1, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2304 (Sub-41F), filed November 21, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, a corporation, 6600 Bessemer Ave., Cleveland, OH 44217. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *iron and steel articles,* (2) *railroad machinery and equipment* (except commodities in (1) above, and (3) *materials and supplies* used in the manufacture and sale of the commodities in (1) and (2) above, between point in Mifflin and Westmoreland Counties, PA, on the one hand, and, on the other, points in OH, MI, IN, IL, KY, NC, SC, TN, GA, FL, AL, MS, LA, VA, WI, MO, NY, and TX.

MC 2934 (Sub-90F), filed November 17, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Indianapolis, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting (1) *barbeque grills and accessories.* (2) *faucets and plumbing fixtures,* and (3) *steel fireplace wood racks, steel sinks and steel and wood tables,* from Paris, IL to points in AL, AR, CT, DE, DC, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NH, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 8575 (Sub-7F), filed November 21, 1980. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: Howard Gould, 2613 Carew Tower, Cincinnati, OH 45202. Transporting *household goods* between points in the U.S.

MC 52704 (Sub-289F), filed November 18, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B.

Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *matches* and *ice cream sticks*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of (1), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 60014 (Sub-202F), filed November 13, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *building materials*, and *materials, equipment and supplies* used in the manufacture and distribution of building materials, between points in the U.S., restricted to traffic originating at or destined to the facilities of Bird & Son, Inc.

MC 99455 (Sub-9F), filed November 19, 1980. Applicant: M. H. HILLERY, INC., 100 Western Ave., Allston, MA 02134. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Boston, MA, on the one hand, and, on the other, points in RI and VT.

MC 120364 (Sub-28F), filed November 21, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, frozen foods, motor vehicles, and farm equipment and supplies), between points in Brown, Calumet, Dodge, Fond du Lac, Green, Jefferson, Kenosha, Kewanee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, WI, on the one hand, and, on the other, Chicago, IL and those points in IL on and north of Interstate Hwy 80.

MC 136464 (Sub-52F), filed November 21, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *foodstuffs* and (2) *materials equipment, and supplies* used in their manufacture, distribution and sale, between points in the U.S., under continuing contract(s) with Mrs. Smith's Frozen Foods, of Pottstown, PA.

MC 149094 (Sub-1F), filed November 12, 1980. Applicant: JAMES PRINCL, d.b.a. JAMES PRINCL TRUCKING, 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *petroleum and petroleum products*, between points in Brown and Portage Counties, WI, on the one hand, and, on the other, points in the upper peninsula of MI.

Volume No. OP3-100

Decided December 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 104654 (Sub-165F), filed October 8, 1980, previously noticed in the Federal Register issue of October 24, 1980. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., NW., Washington, DC 20004. Transporting (2) *lubricating oil*, from St. Louis, MO, to points in IL, GA, IN, IA, KY, TN, MS, WI, KS, NE, AR, and LA.

Note.—This partial republication corrects the territorial description.

MC 107515 (Sub-1395F), filed November 21, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Michell, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting (1) *air conditioning equipment*, (2) *furnaces*, (3) *component parts*, and *accessories* for air conditioning equipment, and furnaces, and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) and (2) above, between the facilities of Carrier Air Conditioning Group, division of Carrier Corporation, in AR, NY, TN, and TX, on the one hand, and, on the other, points in the U.S. (except HI).

MC 118535 (Sub-163F), filed November 20, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *lead, lead alloys, zinc, iron ore, and iron oxide*, and *materials, equipment, and supplies* used in the manufacture, and distribution of lead, lead alloys, zinc, iron ore, and iron oxide, between points in Washington County, MO, on the one hand, and, on the other, points in AR, AZ, CO, IA, IL, IN, KS, KY, LA, MI, MN, MS, NE, ND, OK, SD, TN, TX, WI, and WY.

MC 121644 (Sub-9F), filed November 14, 1980. Applicant: S & W FRIEGHT LINES, INC., 1136 Haley Rd., P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Atlanta, GA, and Memphis, TN: From Atlanta over Interstate Hwy 20 and U.S. Hwy 78 to Birmingham, AL, then over Interstate Hwy 65 and U.S. Hwy 31 to junction AL Hwy 157, then over AL Hwy 157 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Memphis, and return over the same route, serving Birmingham, AL as an intermediate point.

MC 121664 (Sub-136F), filed November 10, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460, Representative: William E. Grant, 1702 1st Ave., South, Birmingham, AL 35233. Transporting *building materials*, and *materials, equipment and supplies* used in the manufacture and installation of building materials, between points in Mobile County, AL, and Jefferson Parish, LA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IN, MO, AR, and TX.

MC 121664 (Sub-137F), filed November 20, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Ave., South, Birmingham, AL 35233. Transporting (1) *roofing and roofing materials*, and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, between Frederick, MD, and those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 121815 (Sub-3F), filed November 19, 1980. Applicant: ALL SOUTH MOTOR FREIGHT, INC., 1220 Faydur Court, P.O. Box 100893, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Nashville, TN, and St. Louis, MO: from Nashville over Interstate Hwy 24 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, and return over the same route, serving no intermediate points.

MC 123255 (Sub-225F), filed November 18, 1980. Applicant: B & L MOTOR

FREIGHT, INC., 1984 Coffman Rd. Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Transporting *foodstuffs,* between those points in the U.S. in and east of MT, WY, CO, and NM.

MC 136635 (Sub-42F), filed November 18, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Rd., South Bend, IN 46616. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *animal feed and animal feed supplements,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Elkhart County, IN, on the one hand, and, on the other, points in the U.S.

Volume No. OP4-154

Decided: December 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 93186 (Sub-10F), filed September 24, 1980, previously noticed in the Federal Register issue of October 14, 1980, and republished this issue. Applicant: EUDELL WATTS, III, d.b.a. WATTS TRANSFER CO., 825 First Ave., Rock Island, IL 61201. Representative: L. Steven Platt, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *motorcycle parts and automobile parts, agricultural implement parts, iron and steel foundry products, and wheels and rims,* between Chicago and Rock Island, IL, on the one hand, and, on the other, Cedar Rapids, Clinton, Davenport, Dubuque, Iowa City, Ottumwa, Muscatine, Sioux City, Walcott, Washington, Waterloo, and Wilton Junction, IA.

Note.—The purpose of this republication is to correct the commodity description.

MC 148737 (Sub-6F), filed November 18, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27153, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same address as applicant). Transporting (1) *flavorings and syrups,* from Clovis, CA, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 152057 (Sub-1F), filed November 7, 1980, and previously noticed in the Federal Register issue of November 25, 1980. Applicant: LANDSMAN CAR CARRIER SERVICE, INC., 5601 Reisterstown Rd., Baltimore, MD 21215. Representative: Harold E. Mesirow, 1333 New Hampshire Ave. NW., Washington, D.C. 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *motor vehicles,* in secondary movements, in truckaway service, between points in AR, FL, GA, IL, IN, IA, KS, LA, MD, MA, MI, MO, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, VA, ME, KY, WV, MS, AL, NH, VT, RI, DE, CT, and DC, restricted against movements of new motor vehicles having an immediate prior movement by water or rail.

Note.—The purpose of this republication is to correctly reflect the territorial description.

To the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38569 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 26, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before February 10, 1981, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3-098

Decided: December 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 147344 (Sub-22F), filed November 13, 1980. Applicant: RED'S EXPRESS, INC., 309 Beech St., Modesto, CA 95351. Representative: Edward J. Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 152804F, filed November 24, 1980. Applicant: W. DENNIS BYARS, P.O. Box X, 309 E. Park, Lincoln, AR 72744. Representative: (Same as applicant.) Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs), intended for human consumption, *agricultural limestone and other soil conditions, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP3-102

Decided: December 3, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 126045 (Sub-32F), filed November 21, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORP., P.O. Box 3122, Davenport, IA 52808. Representative:

Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 152795F, filed November 21, 1980. Applicant: BLACK BALL LINES INC., One World Trade Center, Suite 3211, New York, NY 10048. Representative: (Not indicated.) As a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4-153

Decided: December 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 146817 (Sub-9F), filed November 25, 1980. Applicant: GEORGE CAVES d.b.a. CAVES TRUCKING, P.O. Box 29357, Lincoln, NE 68529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 146827 (Sub-2F), filed November 25, 1980. Applicant: DONOVAN L. SPRY d.b.a. W. J. SPRY & SONS, P.O. Box 36, Chili, WI 54220. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *general commodities* between Chili, Granton and Neilsville, WI, on the one hand, and on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 152837F, filed November 19, 1980. Applicant: DAVID L. GEORGE d.b.a. TRANSPORTATION AGENT, P.O. Box 168—409 No. Commerce, Harlingen, TX 78550. Representative: David L. George (same address as applicant). As a *broker* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

To the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38568 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation: Bow Valley Coal Resources Inc. 1700 Broadway, Suite 900, Denver, Colorado 80290.

2. Wholly-owned subsidiaries:

(a) Flying Diamond Transportation Corp., 1700 Broadway, Suite 900, Denver, Colorado 80290.

(b) Bow Valley Petroleum Inc., 1700 Broadway, Suite 900, Denver, Colorado 80290.

1. The parent corporation is Combustion Engineering, Inc., whose principal office is located at 900 Long Ridge Road, Stamford, Connecticut 06902.

2. The wholly-owned subsidiaries which will participate in the operations of the intercorporate hauling and the addresses of their respective principal offices are as follows:

(a) Ehrsam Transport, Inc, 206 South Factory, Enterprise, Kansas 67441.

(b) CE Air Preheater Division, Wellsville, New York 14895.

(c) CE Bauer, 3200 Upper Valley Pike, Box 968, Springfield, Ohio 45501.

(d) CE Invalco, P.O. Box 556, Tulsa, Oklahoma 74101.

(e) CE Kansas Manufacturing, 108 North Factory, Enterprise, Kansas 67441.

(f) CE Raymond, 200 West Monroe Street, Chicago, Illinois 60606.

(g) CE Gray Tool, P.O. Box 2291, Houston, Texas 77001.

(h) CE Natco, P.O. Box 1710, Tulsa, Oklahoma 74101.

(i) CE Vetco, 5740 Ralston Street, P.O. Box 3939, Ventura, California 93003.

1. Parent corporation and address of principal office: Ex-Cell-O Corporation, 2855 Coolidge Road, Troy, Michigan 48084.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Corporate Administrative Services—850 Ladd Rd., Walled Lake, Michigan 48088.

Davidson Rubber Company Incorporated, a/k/a—Headquarters & Plant, Industrial Park, Dover, New Hampshire 03820.

McCord Corporation—Gasket Division, 191 Labadie Street, Wyandotte, Michigan 48192.

McCord Heat Transfer Division—Headquarters, 2850 West Grand Blvd., Detroit, Michigan 48202.

Plastic Components Division—2110 Charles C. Redfern Dr., P.O. Box 909, Athens, Tennessee 37303.

McCord Replacement Products Division—Headquarters, 2850 West Grand Blvd., Detroit, Michigan 48202.

J. H. Winn, Inc., a/k/a—Headquarters, 620 Washington Street, Winchester, Massachusetts 01890.

Cadillac Gage Company, a/k/a—Headquarters, 25760 Groesbeck Hwy, Warren, Michigan 48089.

Century Engineering Company, a/k/a—Headquarters & Plant, 221 4th Avenue S.E., Cedar Rapids, Iowa 52401.

Power Transmission Products Division—Accurate Bushing Company, 443 North Avenue, Garwood, New Jersey 07027; Accurate Bushing Company, 800 Jefferson Avenue, Union, New Jersey 07083; Chicago Gear Manufacturing Co., 2819 West Fulton Street, Chicago, Illinois 60612; Cone Drive Gears, 240 E. Twelfth St., P.O. Box 272, Traverse City, Michigan 49684; Research & Development Center, 850 Ladd Road, Walled Lake, Michigan 48088.

Remex Division—Headquarters & Plant, 1733 Alton Street, P.O. Box 19533, Irvine, California 92713.

Tool & Abrasive Products Division—Divisional Headquarters, 25900 Greenfield Rd., Oak Park, Michigan 48237.

Machine Tools

Bryant Grinder Corporation, a/k/a—Headquarters & Plant, 257 Clinton Street, Springfield, Vermont 05156.

Machinery Division—Atlantic Machine Tool Works, Incorporated, 549 Cedar Street, Newington, Connecticut 06111; Micromatic, 345 East 48th Street, Holland, Michigan 49423; Micro precision, 525 Berne Street, Berne, Indiana 46711.

North American Special Machinery Division—Greenlee Bros. & Co., a/k/a, 2136 Twelfth Street, Rockford, Illinois 61101.

Standard Machine Tool Division—Detroit Plant, 1200 Oakman Blvd., P.O. Box 38027, Detroit, Michigan 48238; Manistee Plant, 254 River Street, Manistee, Michigan 49660; Rockford Machine Tool Co., 2500 Kishwaukee Street, Rockford, Illinois 61101; Workcenter Plant, 2280 West Grand River Avenue, Howell, Michigan 48843.

Aerospace Division—Aerospace Development Center, 850 Ladd Road, Walled Lake, Michigan 48088; Atlantic Machine, 549 Cedar Street, Newington, Connecticut 06111; Florida Plant, 2287 Premier Row-Orlando, Florida 32809.

Blade/Turbine Products Unit—East Windsor Plant, 215 South Main St., P.O. Box 447, East Windsor, Connecticut 06088; Elwood Plant, 2500 South J. Street, Elwood, Indiana 46036; Fostoria Plant Court Place, Fostoria, Ohio 44830; Lima Plant, 750 Buckeye Rd., P.O. Box 1085, Lima, Ohio 45802.

Fuel Metering Unit—Holland Plant, 201 West 8th Street, Holland, Michigan 49423; Zeeland Plant, 700 N. Centennial, Zeeland, Michigan 49464.

Greenlee Tool Division—Administrative Office, 2330 23rd Avenue, Rockford, Illinois 61101; Forest City Tool, P.O. Box 788-Hickory, North Carolina 28601.

Packaging Systems Division—Adminstrative Office, 850 Ladd Road-Walled Lake, Michigan 48088; Bluffton Plant, 505 East Jefferson, Bluffton, Ohio 45817; Central Distribution Center, 909 Tower Road, Mundelein, Illinois 60060; Ex-Cell-O Materials Handling Company, 1003 Corning Avenue, St. Paul, Minnesota 55106; Research & Engineering, 850 Ladd Road-Walled Lake, Michigan 48088.

International Subsidiaries—Davidson Rubber Company, Ltd., 128 Peter Street, Port Hope, Ontario, Canada; Ex-Cell-O Corporation of Canada, Ltd., 120 Weston Street, London, Ontario, Canada N6A 4L5; Ex-Cell-O Colonial, Canada, 1691 Walker Road, Windsor, Ontario, Canada N8Y 4R9; Ex-Cell-O Wildex, Canada, 89 Don Street, Clinton, Ontario, Canada N0M 1L0.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38517 Filed 12-11-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-11,589]

Chrysler Corp., St. Louis Assembly Plant, Fenton, Missouri; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1980 in response to a worker petition received on October 23, 1980 which was filed by the United Plant Guard Workers of America on behalf of workers at the St. Louis Assembly Plant, Fenton, Missouri of Chrysler Corporation. The workers produce Diplomat and LeBaron cars.

The petitioning group of workers in this case was included in a determination (TA-W-5982) issued on November 6, 1979 which certified as eligible to apply for adjustment assistance all workers at the St. Louis Assembly Plant of Chrysler Corporation. Since all workers separated, totally or partially, on or after August 28, 1978 (impact date) and before November 6, 1981 (expiration date) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 5th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38617 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28

[TA-W-8876]

Cummings Leather Co., Lebanon, New Hampshire; Negative Determination Regarding Application for Reconsideration

By application dated November 4, 1980, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing tanned leather at the Cummings Leather Company, Lebanon, New Hampshire. The determination was published in the Federal Register on October 17, 1980, (45 FR 69076).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims in its application for reconsideration that the Department's customer survey was not adequately conducted and enclosed a list of customers of Frenville and Company, Hoboken, New Jersey.

The Department's review showed that the petition for workers of the Cummings Leather Company, Lebanon, New Hampshire a contractor which contracted exclusively with Frenville, did not meet the increased import criterion of the Trade Act of 1974. The review showed that the Cummings Leather's sales and employment increased in 1979 compared to 1978. Employment declined abruptly in May 1980 when Frenville's production ceased. U.S. imports of tanned cattlehides decreased absolutely in 1979 compared to 1978. During the January through June 1980 period when employment declines occurred at Cummings Leather, U.S. imports of tanned cattlehides decreased both absolutely and relative to domestic production when compared to the same period in the preceding year.

The Department's contacts with a number of Frenville's customers indicated that they either did not import tanned leather hides or decreased their imports in 1980 compared to 1979 because of the softness in the leather finished goods market.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is therefore, denied.

Signed at Washington, D.C., this 1st day of December 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-38611 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8888]

Eagle Clothes, Inc., Brooklyn, New York; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980 in response to a worker petition received on June 11, 1980 which was filed on behalf of workers and former workers producing men's suits, sportcoats and pants at Eagle Clothes, Incorporated, Brooklyn, New York.

The petitioning group of workers was included in a determination issued on August 31, 1978 (TA-W-3465) which certified as eligible to apply for adjustment assistance all workers engaged in employment related to the production of men's suits, sportcoats and pants at Eagle Clothes, Incorporated, Brooklyn, New York. Since all workers identified in this petition were totally separated from employment before August 31, 1980 (expiration date of the certification) and were covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 4th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38616 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,628]

EX-CELL-O Corp.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 80-29092 appearing on page 62586 in the Federal Register of September 19, 1980, the company name in the appendix under petitioner XLO Tool and Abrasive Corporation, TA-W-10,628 is corrected to read as follows: "EX-CELL-O Tool and Abrasive Products Division, EX-CELL-O Corporation."

Signed at Washington, D.C. this 4th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38614 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,327]

EX-CELL-O Tool and Abrasive Products Division, EX-CELL-O Corp., Pendleton, Indiana; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 20, 1980 in response to a worker petition received on October 14, 1980 which was filed on behalf of workers and former workers producing honing abrasives at the Pentleton, Indiana plant of Ex-Cell-O Tool and Abrasive Products Division, Ex-Cell-O Corporation.

On September 3, 1980 a petition was filed on behalf of the same group of workers (TA-W-10,628).

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,628, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 1st day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38610 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

Federal American Partners (USWA), et al.; 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 the 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 22, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 22, 1980.

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 28th day of November 1980.

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
Federal American Partners (USWA)	Riverton, WY	11-25-80	11-21-80	TA-W-11,811	Uranium.
GTE Products Corp. (workers)	Altoona, PA	11-24-80	11-21-80	TA-W-11,812	Electronic receiving tubes.
Industrial Steel Stamping, Inc. (workers)	Monroe, MI	11-24-80	11-20-80	TA-W-11,813	Pillars for doors of vans.
Koppers Co. (USW)	Toledo, OH	11-25-80	11-20-80	TA-W-11,814	Foundry—coke.
Linden Apparel Corp., Plant No. 1 (company)	Linden, TN	11-24-80	11-20-80	TA-W-11,815	Men's and boys' pants.
Linden Apparel Corp., Plant No. 2 (company)	Linden, TN	11-24-80	11-20-80	TA-W-11,816	Men's and boys' pants.
Lou Levy & Sons Fashion (ILGWU)	New York, NY	11-20-80	11-18-80	TA-W-11,817	Ladies' coats.
McEwen Manufacturing Co. (company)	McEwen, TN	11-24-80	11-20-80	TA-W-11,818	Men's and boys' work pants.
Stoughton Uniroyal (UPWI)	Stoughton, WI	11-25-80	11-19-80	TA-W-11,819	Vinyl coated fabrics.
Wurlitzer Co. (workers)	Corinth, MS	11-24-80	10-6-80	TA-W-11,820	Organs.
Amax Specialty Metal Corp. (USW)	Florham, NJ	11-21-80	11-14-80	TA-W-11,821	Melting and hot rolling of specialty metals.
Amax Specialty Metal Corp. (USW)	Newark, NJ	11-21-80	11-14-80	TA-W-11,822	Cold rolling mill.
American Steel Foundries, Hammond Plant (USWA).	Hammond, IN	11-21-80	11-17-80	TA-W-11,823	Hot wound coil springs and sliders for 5th wheels.
American Steel Foundries, Indiana Harbor Works (USWA).	East Chicago, IN	11-21-80	11-17-80	TA-W-11,824	5th wheel castings.
Bolt Tipple (USW)	Wyoming County, WV	11-21-80	11-18-80	TA-W-11,825	Metallurgical coal.
Co-Ed Sportswear (workers)	Tuscaloosa, AL	11-21-80	11-17-80	TA-W-11,826	Ladies' sportswear.
Fischer Mills Co. (company)	Secaucas, NJ	11-21-80	11-17-80	TA-W-11,827	Warp knitted fabrics.
High Q Manufacturing (workers)	Lakeview, MI	11-21-80	9-25-80	TA-W-11,828	Automobile electrical wire harness assemblies.
Matco Allied (workers)	Medina, OH	11-24-80	11-20-80	TA-W-11,829	Tool boxes.
Parker Hannifin Corp., Manatrol Division (IAM).	Elyria, OH	11-25-80	11-18-80	TA-W-11,830	Hydraulic pressure, flow and directional control valves.

[FR Doc. 80-38620 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7924, 8227, 8246, 8247, 8511-8568, 8529A-D]

Ford Motor Co., Dearborn, Michigan; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on May 27, 1980 and June 2, 1980 in respones to a petition which was filed on behalf of workers at a number of support facilities of the Ford Motor Company.

The investigation revealed that criterion (3) has not been met.

Since workers do not produce an article within the meaning of Section 222(3) of the Trade Act, they may be certified only if their separation was importantly caused by a reduced demand for their services from either the parent firm or from a firm related to the Ford Motor Company by ownership or control. In either 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 and substantially relate to the product or products adversely impacted by imports.

Evidence developed during the course of the investigation revealed that with respect to the International Automotive Operations-Product Strategy Officer (TA-W-8227), Latin American Automotive Operations Staff (TA-W-8247) and the Ford Parts and Service Division (TA-W-8246, 8511-8568), except Industrial Engine Operations, and the Predelivery Service Corporation (TA-W-8529, 8529A-D, 7924), there was not substantial integration into the production of trade-impacted Ford cars, trucks, vans or utility vehicles.

International Automotive Operations-Product Strategy Office (TA-W-8227)

The Product Strategy Office is responsible for product planning, vehicle and component product engineering for the Ford Export Division and for selected International Automotive Operations affiliate programs. The support services of this office are integrated into the production of export vehicles.

Latin American Automotive Operations Staff (TA-W-8247)

Most of the business conducted by the Latin American Automotive Operations Staff involves Latin American affiliate company operations and the Ford Export Division. Support services rendered by this office are concerned with overseas production operations and export vehicles.

Ford Parts and Service Division (TA-W-8246, 8511-8528 and 8530-8568)

The General Office, Regional and District Offices (TA-W-8246, 8535-8568) and Service Research Center (TA-W-8532) are responsible for coordinating and administrating programs related to customer service and sales of car and truck replacement parts to dealers and independent parts businesses. Through the Brownstown Redistribution Center (TA-W-8511) and a network of twenty-one Parts Distribution Centers (TA-W-8512-8528, 8530-31, 8533-34) franchised dealers and independent customers are equipped with parts and accessories required to maintain all car and truck lines produced by Ford Motor.

The largest percentage of the replacement parts and accessories which Ford sells through the distribution centers are manufactured by unaffiliated domestic firms. Further, most of the parts produced by Ford at certified component parts plants were used in the manufacture of original equipment at certified assembly plants. Production of replacement parts for trade-impacted Ford cars, trucks, vans and utility vehicles accounted for an insignificant portion of total output at each of the 44 certified component parts plants.

Predelivery Service Corporation (TA-W-8529, 8529A-D, 7924)

The Predelivery Service Corporation (PSC) enters into contracts with dealerships to provide services associated with the final preparation of vehicles before delivery to customers. Ford and Lincoln-Mercury dealers, which are independent businesses franchised by Ford, have the option of performing the predelivery service in-house at the dealership or arranging to contract the work to the Predelivery Service Corporation or another automobile service firm.

There are five PSC centers located in Tampa, Florida; Houston, Texas; Portland, Oregon; Portsmouth, Virginia; and LaMirada, California. The General Office for PSC is in Detroit, Michigan. Three of the five centers (Houston, Portsmouth and Tampa) serviced only foreign-built cars in 1979. The operations at these centers are not integrated into the production of trade-impacted Ford car and truck lines.

The remaining two centers (Portland and LaMirada) service both foreign and domestic vehicles. Because the dealerships have the option to contract with the PSC centers, operations at these centers are not substantially integrated into the production of trade-impacted Ford car and truck lines.

Conclusion

After careful review, I determine that all workers of the support facilities of the Ford Motor Company listed in the appendix are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of August 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

Appendix

TA-W-	Facility	Location
8227	International Automotive Operations—Product Strategy Office	Dearborn, MI.
8246	Ford Parts and Service Division, except Industrial Engine Operations	Dearborn, MI.
8247	Latin American Automotive Operations: Staff	Dearborn, MI.
8511	Ford Parts and Service Division (FPSD) Brownstown Parts Redistribution Center.	Brownstown Township, MI.
8512	FPSD Eastern Regional Office and Atlanta Parts Distribution Center (PDC)	East Point, GA.
8513	Boston PDC	Natick, MA.
8514	Charlotte PDC	Charlotte, NC.
8515	Chicago PDC	Melrose Park, IL.
8516	Cincinnati PDC	Cincinnati, OH.
8517	Cleveland PDC	Cleveland, OH.
8518	Dallas PDC	Carrollton, TX.
8519	Delaware Valley PDC	Pennsauken, NJ.
8520	Denver PDC	Denver, CO.
8521	FPSD Central Regional Office and Detroit PDC	Detroit, MI.
8522	Houston PDC	Houston, TX.
8523	Jacksonville PDC	Jacksonville, FL.
8524	Kansas City PDC	Lenexa, KS.
8525	Los Angeles PDC	Los Angeles, CA.
8526	Memphis PDC	Memphis, TN.
8527	National PDC	Livonia, MI.
8528	New York PDC	Teterboro, NJ.
8529	Predelivery Service Corporation (PSC)	Detroit, MI.
8529A	PSC Tampa	Tampa, FL.
8529B	PSC Houston	Houston, TX.
8529C	PSC Portland	Portland, OR.
8529D	PSC Portsmouth	Portsmouth, VA.
7924	PSC LaMirada	LaMirada, CA.
8530	FPSD Western Regional Office and San Francisco PDC	Richmond, CA.
8531	Seattle PDC	Seattle, WA.
8532	Service Research Center	Dearborn, MI.
8533	Twin Cities PDC	Minneapolis, MN.
8534	Virginia PDC	Richmond, VA.
8535	FPSD Southeast Regional and Atlanta District Offices	East Point, GA.
8536	FPSD Boston District Office	Waltham, MA.
8537	FPSD Buffalo District Office	Buffalo, NY.
8538	FPSD Charlotte District Office	Charlotte, NC.
8539	FPSD Chicago District Office	Melrose Park, IL.
8540	FPSD Cincinnati District Office	Cincinnati, OH.
8541	FPSD Cleveland District Office	Cleveland, OH.
8542	FPSD Dallas District Office	Carrollton, TX.
8543	FPSD Davenport District Office	Davenport, IA.
8544	FPSD Denver District Office	Denver, CO.
8545	FPSD Great Lakes Regional and Detroit District Offices	Wixom, MI.
8546	FPSD Houston District Office	Houston, TX.
8547	FPSD Indianapolis District Office	Indianapolis, IN.
8548	FPSD Jacksonville District Office	Jacksonville, FL.
8549	FPSD Central Regional and Kansas City District Offices	Kansas City, MO.
8550	FPSD Lansing District Office	Lansing, MI.
8551	FPSD Los Angeles District Office	Pico Rivera, CA.
8552	FPSD Louisville District Office	Louisville, KY.
8553	FPSD Memphis District Office	Memphis, TN.
8554	FPSD Milwaukee District Office	Milwaukee, WI.
8555	FPSD Northeast Regional and Newark District Office	Teterboro, NJ.
8556	FPSD New Orleans District Office	Metairie, LA.
8557	FPSD New York District Office	White Plains, NY.
8558	FPSD Omaha District Office	Omaha, NE.
8559	FPSD Philadelphia District Office	Pennsauken, NJ.
8560	FPSD Phoenix District Office	Phoenix, AZ.
8561	FPSD Pittsburgh District Office	Pittsburgh, PA.
8562	FPSD Richmond District Office	Richmond, VA.
8563	FPSD Western Regional and San Jose District Offices	Milpitas, CA.
8564	FPSD Salt Lake City District Office	Salt Lake City, UT.
8565	FPSD Seattle District Office	Kirkland, WA.
8566	FPSD St. Louis District Office	St. Louis, MO.
8567	FPSD Twin Cities District Office	Bloomington, MN.
8568	FPSD Washington DC District Office	Falls Church, VA.

[FR Doc. 80-38619 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,665]

Hoover Universal, Inc., Georgetown, Kentucky; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 17, 1980 in response to a worker petition received on November 10, 1980, which was filed on behalf of workers and former workers producing metal seat frames for automobiles at the Georgetown, Kentucky plant of Hoover Universal, Incorporated.

On August 18, 1980, an investigation (TA-W-10,034) was initiated on behalf of the same group of workers as TA-W-11,665.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,034, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 4th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38608 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,357]

Interlake, Inc., Wilder, Kentucky; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 20, 1980, in response to a worker petition received on October 14, 1980, which was filed on behalf of workers and former workers of Interlake, Incorporated, Wilder Kentucky.

On August 15, 1980, a petition was filed on behalf of workers and former workers of the Newport Works of Interlake, Incorporated (TA-W-10,399). The Newport Works of Interlake, Incorporated consists of facilities located in Newport and Wilder, Kentucky.

Since the determination issued under TA-W-10,399 will cover all workers at Interlake's Newport Works, including

those at the Wilder, Kentucky facility, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38615 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,104]

Mr. Fine, Inc., Graham, Texas; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a worker petition received on September 22, 1980 which was filed on behalf of workers and former workers of the Graham, Texas facility of Mr. Fine, Incorporated. Workers produce ladies' clothing.

On September 29, 1980, an investigation (TA-W-11,103) was initiated on behalf of the same group of workers as TA-W-11,104.

Since the identical group of workers is the subject of the ongoing investigation TA-W-11,103, a new investigation would serve no purpose. Consequently, the investigation (TA-11,104) has been terminated.

Signed at Washington, D.C. this 28th day of November 1980.

Harold A. Bratt,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38608 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,066]

Massey-Ferguson Tractor Division, North American Tractor Plant, Detroit, Michigan; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a worker petition received on September 22, 1980 which was filed on behalf of workers and former workers producing tractors at the North American Tractor Plant, Detroit, Michigan, of Massey-Ferguson Tractor Division (TA-W-11,066).

On September 22, 1980 an investigation (TA-W-10,985) was initiated on behalf of the same group of workers as TA-W-11,066.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,985, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 1st day of December 1980.

Harold A. Bratt,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38613 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

National Steel Corp., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period December 1-5, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criterion has not been met.

TA-W-8955 & 8955A; National Steel Corp., Weirton Steel Div.; Weirton, WV and Stubenville, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,555 & 10,556; The Isaac Corp.; Brookpark, OH and Defiance, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,538; Supreme Knits, Inc., Oakboro, NC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA-W-10,473; Long-Airdox Co., Div. of the Marmon Group, Inc., Oak Hill, WV

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-9393; Cyclops Corp., Detroit Strip Div., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9357; Contour Plastics, Inc., Bloomington, MN

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-9094; Saint Paul Structural Steel Co., St. Paul, MN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of fabricated structural steel did not increase as required for certification.

TA-W-8949; Ruby-Spears Productions, Inc., Sun Valley, CA

Investigation revealed that criterion (3) has not been met. Separations from the subject firm were seasonal in nature.

TA-W-8944; Hanna-Barbera Productions, Inc., Hollywood, CA

Investigation revealed that criterion (3) has not been met. Separations from the subject firm were seasonal in nature.

TA-W-8082; Michigan Rubber Products, Inc., Cadillac, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8077; Bundy Corp., Bundy Tubing Div., Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8647; Schlegel Corp., Rochester, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9047; Philips Fischer, Inc., Williamstown, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,702; Mode O'Day Co., Hastings, NE

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-8010; Armco, Inc., Middletown, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,922; Inland Steel Mining Co., Virginia, MN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of iron ore, pellets, and sinter did not increase as required for certification.

TA-W-10,593; Burke Mills, Inc., Valdese, NC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric and yarn did not increase as required for certification.

TA-W-10,916; Limbach Co., Pontiac, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of duct work are negligible.

TA-W-8665; Wexford Sand Co., Harrietta, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8084 & 8085; ITT Lester Industries, Inc.; Rome, GA and Bedford, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9383; Buffalo Slag Co., Inc., Buffalo, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of iron and steel scrap are negligible.

TA-W-8971; Eaton Corp., Vassar, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8644; Triple A Tube, Inc., Jonesville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8037; Newport Steel Corp., Newport, AR

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-11,012; Dick Green Chrysler-Plymouth, Inc., Farmington, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,292; Abex Corp., Engineered Products Div., Athens, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tire molds are negligible.

TA-W-10,274; Fairplain Engineering, Inc., Benton Harbor, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9470; Tony Marson Tile and Marble Co., Southfield, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8885; Deluxe Pattern Co., Fraser, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8824; Traffic Transport Engineering, Inc., Romulus, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-8054 & 8062; Fox Knapp Mfg. Co., Inc.; Pine Grove, PA and Milton, PA

A certification was issued applicable to all workers at the subject firm separated on or after May 9, 1979.

TA-W-9178; Bonita Leather Fashions, Inc., New York, NY

A certification was issued applicable to all workers at the subject firm separated on or after June 16, 1979.

I hereby certify that the aforementioned determinations were issued during the period December 1-5, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: December 8, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38621 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7864]

Seward Luggage Co., Los Angeles, California; Negative Determination Regarding Application for Reconsiderration

By application dated October 24, 1980, the petitioning union rquested administrative reconsideration of the Department of Labor's Negative Deterination Regarding Eligility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing trunks and footlockers at

Seward Luggage Company's Los Angeles, California plant. The determination was published in the Federal Register on October 3, 1980, (45 FR 65701).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims that unfair competition of imports has affected the operation of the Seward Luggage Company in Los Angeles, California.

The Department's review showed that the petition for workers at Seward Luggage in Los Angeles, California did not meet the increased import criteria for trunks and footlockers nor the "contributed importantly" test of the Trade Act of 1974. Since November, 1978 Seward Luggage has produced only trunks and footlockers. Prior to that time workers at Seward produced soft and hard sided luggage, a product in which there were increased imports in 1978 and 1979. At an earlier date the workers may theoretically have qualified for certification had they petitioned the Department in a timely fashion. Section 223(b) of the Trade Act states that no cetification may apply to any worker totally or partially separated more than one-year from the date of the petition, which in this case is April 16, 1980. Therefore, given the one-year limitation, layoffs at Seward prior to April 16, 1979 are outside the scope of the Trade Act of 1974. Thus, imports of trunks and footlockers, rather than imports of soft and hard sided luggage, must be considered in determining import injury to workers producing trunks and footlockers.

U.S. imports of trunks and footlockers were significant in 1979 and in the first quarter of 1980. The Department's survey of Seward's Los Angeles, California plant's customers showed that most did not purchase imported trunks and footlockers during 1979 or the the first half of 1980.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 8th day of December 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-38607 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-04-M

[TA-W-10,970]

Uniroyal, Inc., Painesville, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 22, 1980 in response to a worker petition received on September 15, 1980 which was filed on behalf of workers at the Painesville, Ohio plant of Uniroyal, Incorporated. The workers produce synthetic nitrile rubber.

The investigation revealed that another petition (TA-W-10,263) has also been filed on behalf of the same group of workers at Uniroyal, Incorporated, Painesville, Ohio. Since the identical group of workers is the subject of the ongoing investigation (TA-W-10,263), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 8th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38618 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,243]

United Technologies Corp., Automotive Products Division, Dearborn, Michigan; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a worker petition received on October 6, 1980 which was filed on behalf of workers and former workers producing automotive wire harnesses, switches and relays at the Dearborn, Michigan administrative offices of the Automotive Products Division of United Technologies Corporation (TA-W-8,631).

On June 9, 1980, an investigation (TA-W-8,631) was initiated on behalf of the same group of workers as TA-W-11,243.

Since the identical group of workers is the subject of the ongoing investigation TA-W-8,631, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 28th day of November 1980.

Harold A. Bratt,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38609 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,008]

Westover Knitting Mills, Indian Orchard, Massachusetts; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 22, 1980 in response to a worker petition received on September 16, 1980 which was filed on behalf of workers at Westover Knitting Mills, Indian Orchard, Massachusetts. The workers produce finished fabric.

On August 28, 1980 workers at Westover Knitting Mills were denied eligibility to apply for adjustment assistance (TA-W-9452). The petition alleged that imports of clothing caused layoffs. The investigation revealed no evidence that indicated increased imports of clothing or finished fabric had contributed importantly to layoffs at Westover Knitting Mills in 1979 or the first six months of 1980.

On September 22, 1980 the Department instituted another investigation on behalf of workers at Westover Knitting Mills (TA-W-11,008). The petition alleges that imports of clothing caused layoffs in April, 1980.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-11,008) and since the current petition presents no additional information pursuant to the previous determination (TA-W-9452), another investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C., this 1st day of December 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-38612 Filed 12-11-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-462, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington D.C. 20506:

(1) DATE: January 5-6, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 807
PROGRAM: This meeting will review applications submitted for the Youthgrants Program, Division of Special Programs, for projects beginning after May 1, 1981.

(2) DATE: January 6, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(3) DATE: January 8, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 911
PROGRAM: This meeting will review applications for Residential Fellowships for College Teachers in Spanish Literature, submitted to the Division of Fellowships and Seminars for projects beginning after Janauary 1, 1981.

(4) DATE: January 8-9, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 807
PROGRAM: This meeting will review applications submitted for the Youthgrants Program, Division of Special Programs, for projects beginning after May 1, 1980.

(5) DATE: January 9, 1981

TIME: 9:15 a.m. to 5:30 p.m.
ROOM: 911
PROGRAM: This meeting will review applications for Summer Stipends in Early United States History and Law and Jurisprudence, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(6) DATE: January 9, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Sociology and Psychology, submitted to the Division of Fellowships and Seminars for projects beginning after January 1, 1981.

(7) DATE: January 13, 1981

TIME: 9:15 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Recent U.S. History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(8) DATE: January 14, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Linguistics, Education, Speech, Communications, Composition and Rhetorics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(9) DATE: January 15, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Latin American and Non-Western History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1980.

(10) DATE: January 15-16, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 807
PROGRAM: This meeting will review applications submitted for the Youthgrants Program, Division of Special Programs, for projects beginning after May 1, 1981.

(11) DATE: January 16, 1981

TIME: 9:00 a.m. to 5:30 p.m.
ROOM: 314
PROGRAM: This meeting will review applications for Summer Stipends in Films, Comparative Literature, Literary Theory and criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for finacial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose—.

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clear unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 80-38375 Filed 12-11-80; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322A]

Long Island Lighting Co.; Receipt of Updated Information for Antitrust Review of Operating License Application

The Long Island Lighting Company filed updated information for Antitrust Review of an Operating License Application, dated September 30, 1980. The original submission of information for the antitrust review of the operating license application was filed by letter, dated January 12, 1976. This information was filed pursuant to 2.101 of the Commission's Rules and Regulations and is in connection with the plans of Long Island Lighting Company to operate a boiling water reactor located on the north shore of Long Island, the State of New York, County of Suffolk, in the town of Brookhaven. The reactor has been designated as the Shoreham Nuclear Power Station, Unit 1.

The portion of the application filed contains updated antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director, Office of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington, D.C., and local public document room and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the Federal Register notice. The results of any reevaluation that are requested will also be published in the Federal Register and copies sent to the Washington, D.C., and local public document room.

A copy of the updated information for Antitrust Review for an Operating License Application is available for public examination and copying for a fee at the Commission's Public

Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room in the Shoreham—Wading River Public Library, Route 25A, Shoreham, New York 11786.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before February 10, 1981.

Dated at Bethesda, Maryland this 3rd day of December, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-38401 Filed 12-11-80; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Partially Closed Meeting

December 8, 1980.

The Nuclear Safety Oversight Committee will meet from 9:00 am to 12:30 pm and from 2:00 pm to 5:00 pm on December 16 and 17, 1980 in Phoenix, Arizona. Notice of this meeting, including the agenda, was published on December 2, 1980. the notice stated that a request had been made to close that portion of the meeting to be held on Wednesday, December 17, 1980 beginning at 4:00 pm.

The request to close the meeting was based on the need to preserve the confidentiality of FY 82 NRC, DOE and FEMA budgetary matters which are not final and have not been made public by the agencies or the President. On December 5, 1980 this request was approved by the Administrator of the General Services Administration under the authority of Section 552b(9)(B) of Title 5, United States Code.

Neil Proto,

General Counsel.

[FR Doc. 80-38494 Filed 12-11-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Annual Publication of Notices of Systems of Records

Correction

In FR Doc. 80-36298, appearing at page 78378 in the issue of Tuesday, November 25, 1980, make the following changes:

1. On page 78379, the 16th through the 47th lines of type in column three should appear directly above the heading "PURPOSE(S)" in column two.

2. On page 78402, first column, the last line under the heading, "Record Access Procedure" should read, "297.201 and 297.203)." Also, last line under the heading "Contesting Record Procedures" should read, "and 297.208)."

BILLING CODE 1505-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Privacy Act of 1974; Systems of Records

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Annual notice of the existence and character of Systems of Records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the Pennsylvania Avenue Development Corporation is giving annual notice of the existence and character of its systems of records.

ADDRESS: Privacy Officer, Pennsylvania Avenue Development Corporation, Suite 1148, 425 13th Street, NW, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Barbara S. Austin, Adminstrative Officer, Pennsylvania Avenue Development Corporation, Suite 1148, 425 13th Street, NW., Washington, D.C. 20004, (202) 523-5476.

SUPPLEMENTARY INFORMATION: The Pennsylvania Avenue Development Corporation hereby gives notice that it last published the full text of its systems of records at 42 FR 48782, September 23, 1977. PADC is adding a system of records at this time. Under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, PADC acquires property and provides assistance to individuals and firms relocated as a result of PADC's acquisitions. To administer the Act is necessary to obtain information about each acquisition of real property and each relocation of a displaced person which is suitable for enabling a fair determination of any claim or request for review and for determining just compensation in any negotiated settlement or eminent domain proceeding. This system of records will become effective January 12, 1981, unless PADC publishes notice to the contrary. No changes have occurred to the systems published September 23, 1977, therefor, they remain in effect as published.

The full text of the PADC systems records also appears in Privacy Act Issuances, 1979 Compilation, Volume IV, page 3143. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of the volume is $10.00.

PADC-7

SYSTEM NAME:

Acquistion and Relocation Files.

SYSTEM LOCATION:

Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Washington, D.C. 20004.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Property owners and tenants located within the PADC areas.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Relocation proceedings, acquistion proceedings, contracts, address and phone number of business, description of premises, business and type ownership, valuation of business and premises.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pennsylvania Avenue Development Corporation Act of 1972, Sec. 6(6) Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875) and Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix to full text of systems of records, 42 FR 48782, September 23, 1977. Records are used to compile mailing lists, compile statistics, determine eligibility for payment, determine amount of payment, determine ownership in order to proceed with negotiation for acquisition, determine relocation needs.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File cabinet in office of Relocation Officer.

RETRIEVABILITY:

Information on individuals is retrievable by master chart number. Information on property owners is retrievable by lot and square number.

SAFEGUARDS:

Access is limited to real estate staff members who must use Master Chart to determine names of displaced individuals. Master Chart is secured in office of Relocation Officer.

RETENTION AND DISPOSAL:

Information is maintained until statutory and regulatory time for administrative and judicial appeals has lapsed. It will be destroyed thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Relocation Officer.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address their inquiries to the Privacy Protection Officer, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C., 20004; telephone: (202) 523-5476.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Protection Officer at the address listed in the notification section above.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Protection Officer at the address listed in the notification section above.

RECORD SOURCE CATEGORIES:

Individual or business to whom records pertain.

Dated: December 1, 1980.

W. Anderson Barnes,

Executive Director.

[FR Doc. 80-38521 Filed 12-11-80; 8:45 am]

BILLING CODE 7630-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the sixth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the John Hay and Colonial Rooms, Lower Level, Hay Adams Hotel, 800 16th Street, N.W., Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Friday, January 9, 1981 and from 8:30 a.m. to 4:00 p.m. on Saturday, January 10, 1981.

The meeting will be open to the public, subject to limitations of available space. The agenda of this Committee meeting will include, among other things, the following topics: the risks of procedures, legal issues, the problems in assessing damages, and other issues concerning the compensation of subjects injured in research; and the functions and difficulties of informed consent in health care.

During the morning of Friday, January 9, one-half hour will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept of all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653-8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 80-38590 Filed 12-11-80; 8:45 am]

BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11481; 811-1956]

A.T.A. Industries, Inc.; Proposal To Terminate Registration

December 5, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that A.T.A. Industries, Inc. ("Fund") 122-70 Nellis Street, St. Albans, New York 11413, a small business investment company registered under the Act as a closed-end, non-diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information in the files of Commission indicates that the Fund was incorporated on July 17, 1974, under the laws of the State of New York, and filed a Notification of Registration as a closed-end, non-diversified, management investment company with the Commission on March 28, 1975. In addition, the Fund filed a registration statement (File No. 2-53165) pursuant to the Securities Act of 1933 in connection with a proposed public offering of shares of its capital stock. The 1933 Act registration statement was not made effective, and the Fund did not make a public offering of its securities. The Fund failed to respond to a notice under Rule 479 that the registration statement would be declared abandoned unless timely amended or withdrawn. Thus, the registration statement was declared abandoned by order on March 16, 1976. The Fund has never filed any of the periodic reports required by the Act. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 29, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter 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 the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and

Regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38827 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11478; 811-2076]

American Empire Mutual Fund, Inc.; Proposal To Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

December 4, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that American Empire Mutual Fund, Inc. ("Fund") Suite 420, 102 North Brand Boulevard, Glendale, California 91203, registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund filed its Notification of Registration (Form N-8A) pursuant to Section 8 of the Act on June 26, 1970. On December 23, 1970, the Fund filed its Registration Statement on Form N-8b-1 under the Act, and a Registration Statement on Form S-5 under the Securities Act of 1933 ("Securities Act"). On May 12, 1972, pursuant to Rule 479 of the General Rules and Regulations of the Securities Act, the Fund and its agent for service were sent a registered letter, return receipt requested, notifying them either to amend the Securities Act Registration Statement to comply with the applicable requirements of the Securities Act and the rules and regulations thereunder or to withdraw it within 30 days of the receipt of such letter. The Fund did not comply with either of these requests. In a letter to the Commission dated June 27, 1972, the Fund stated, among other things, that it had issued no securities and had no assets. On July 17, 1972, the Fund's Registration Statement under the Securities Act was declared abandoned by order of the Commission, in accordance with the provisions of Rule 479. On the basis of the foregoing, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and that upon the effectiveness of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than December 29, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter 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 the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38828 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 17355; SR-Amex-80-25]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 5, 1980.

On October 16, 1980, the American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which amends Article V, Section 6 of the Exchange Constitution to (1) extend the period of retained disciplinary jurisdiction over former members of one year following termination of membership status, and (2) expand the scope of such jurisdiction to member organizations.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17253, October 27, 1980) and by publication in the Federal Register (45 FR 72373, October 31, 1980). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange, and in particular, the requirements of Sections 6(b)(5) and 6(b)(6) and the rules and regulations thereunder, in that it will enhance the Exchange's ability to appropriately discipline former members and their associated persons for violations of the Exchange Act or rules of the Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38834 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21823; 70-6520]

Columbia Gas System, Inc., et al.; Proposed Open Account Advances to Subsidiary Companies by Holding Company in Connection With Intrasystem Prepayment of Promissory Notes and Related Transactions

December 5, 1980.

In the Matter of The Columbia Gas System, Inc., Columbia Gas System Service Corporation, Columbia LNG Corporation, Columbia Gas Development of Canada Ltd., Columbia Gas Development Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston,

West Virginia 25314; Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., Columbia Coal Gasification Corporation, 340 17th Street, Ashland, Kentucky 41101 and Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027.

Notice is hereby given That The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly-owned subsidiary companies listed above, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

It is stated that during the winter heating season, Columbia's distribution subsidiary companies generate substantial amounts of cash in excess of current requirements. During the same period, however, the transmission subsidiary companies generate lesser amounts of cash and have generally larger capital expenditures, requiring Columbia to advance funds to such subsidiary companies. In recent years, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue such transactions during the calendar year 1981.

It is proposed that the subsidiary companies listed below will prepay from time to time prior to the end of 1981 with excess cash in aggregate amounts not to exceed the amounts set forth below, a portion of their outstanding installment promissory notes or, for Development Canada, demand promissory notes, ("Notes") held by Columbia. The following amounts represent the estimated aggregate maximum excess funds that such companies are expected to accumulate at any one time during the year 1981.

Columbia Gas System Service Corporation	$9,000,000
Columbia Gas Transmission Corporation	270,000,000
Columbia Gas of Pennsylvania, Inc.	55,000,000
Columbia Gas of New York, Inc.	7,500,000
Columbia Gas of Maryland, Inc.	4,000,000
Columbia Gas of Kentucky, Inc.	12,000,000
Columbia Gas of Virginia, Inc.	6,500,000
Columbia Gas of West Virginia, Inc.	20,000,000
Columbia Gas of Ohio, Inc.	125,000,000
Columbia Gulf Transmission Company	75,000,000
Columbia Hydrocarbon Company	5,000,000
The Inland Gas Company, Inc.	4,825,000
Columbia LNG Corporation	126,000,000
Columbia Gas Development Corporation	50,000,000
Columbia Coal Gasification Corporation	5,500,000
Columbia Gas Development of Canada Ltd.[1]	15,000,000
Total	790,325,000

In accordance with the Commission's authorization concerning the accounting treatment (HCAR No. 19054 (June 19, 1975)), Development Canada's demand promissory notes were issued to track the allocation to Development Canada of tax benefits generated from its net tax losses for years 1973 through 1980. It is stated that Development Canada should be paid a reasonable rate of interest for the period of time the temporary excess funds are being used by Columbia. Therefore, it is proposed that the funds so prepaid will accrue interest credits for Development Canada at a rate equal to the fluctuating prime commercial lending rate in effect from time to time at the agent bank for Columbia's short-term line of credit. As funds are thereafter required for construction and other corporate purposes, funds will be drawn down by Development Canada in such aggregate amounts not to exceed the amount of demand promissory notes previously prepaid. All such funds will be taken down by December 31, 1981. The demand promissory notes will be repaid on a permanent basis as Development Canada incurs tax liabilities through its sale of properties and/or turnaround of timing differences resulting from prior exploration and development deductions. It is presently anticipated that tax payments in the amount of $9 million will be made by Development Canada in 1981 resulting in a concurrent deduction in the demand promissory notes.

The Notes ("Indebtedness") prepaid by the individual companies will be those bearing the highest interest rate outstanding at the time of each prepayment. Interest on such Indebtedness will cease upon prepayment and recommence upon reinstatement. As such funds are thereafter required for construction and other corporate purposes, it is proposed that advances be made on open account to such subsidiary by Columbia in such aggregate amounts not to exceed the amount of Indebtedness previously prepaid, less any current maturities applicable to Notes which have matured subsequent to the date of prepayment.

The open account loans will bear interest at the same rate or rates as borne by the equivalent principal amounts of Indebtedness previously prepaid by such subsidiary during 1980 but in reverse order to that of prepayment; i.e., working up from the lowest rate payable on the Indebtedness previously prepaid to the highest rate. It is intended that advances on open account to an individual subsidiary as proposed therein be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary; however, at no time will the advances outstanding under authority herein requested be in excess of the indebtedness prepaid therefore. Either at such time as the advances equal the aggregate amount of the Indebtedness prepaid or in any event not later than December 31, 1981, the Indebtedness that was prepaid will be reinstated and accepted by Columbia in repayment of the outstanding open account loans.

Financing of construction or gas storage programs of any operating subsidiary company pursuant to Commission authorization will not be consummated until such time as advances have been made in amounts equal to the amount of Indebtedness prepaid. Any subsidiary company which during 1981 has borrowed on open account from Columbia an amount smaller than the amount of Indebtedness theretofore prepaid by it, will, on December 31, 1981, reinstate its Indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid Indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against Indebtedness bearing the highest interest rates and would be consummated only with respect to Indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as of December 31, 1981. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to Notes bearing an interest rate less than the rate applicable to debt purchased by Columbia from subsidiary companies at December 31, 1981, such Notes will be reinstated by the subsidiary company at or before the end of 1981.

It is stated that the propsed transactions are designed to achieve the following: (1) flexibility to prepay inventory loans with commercial banks and other short-term borrowings at the earliest possible date, (2) deferment of

outside financing until aggregate system funds approach a minimum balance, (3) facilitating the internal financing of emergency requirements, and (4) allowing subsidiaries, during any period in which they have excess cash, to decrease their own net corporate interest expense.

Expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at $3,750.

It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reissuance of prepaid Notes by Columbia Gas of West Virginia, Inc., that the Public Service commission of New York has authorized the reissuance of prepaid Notes by Columbia Gas of New York, Inc., that the Public Service Commission of Kentucky has authorized the reissuance of prepaid Notes by Columbia Gas of Kentucky, Inc., and that the State Corporation Commission of Virginia has authorized the reissuance of prepaid Notes by Columbia Gas of Virginia, Inc. It is represented that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The applicant-declarants have requested that authorization be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than December 29, 1980, request in writing that a hearing be held on such matter, stating the natue of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will recieve any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38829 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11479; 812-4480]

Continental Bank of Canada; Filing of Application for Order Pursuant to Section 3(b)(2) of the Act Declaring That Applicant Is Not an Investment Company or, Alternatively, for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

December 5, 1980.

Notice is hereby given that Continental Bank of Canada ("Applicant"), Continental Place, 130 Adelaide Street West, Toronto, Canada, filed an application on May 24, 1979, and amendments thereto on May 7, 1980, and June 19, 1980, for an order of the Commission pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act"), declaring that Applicant is not an investment company as defined by the Act or, alternatively, for an order pursuant to Section 6(c) of the Act exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a bank which was incorporated by an Act of Parliament of Canada on July 14, 1977, and that it is a wholly owned subsidiary of IAC Limited ("IAC"), Canada's largest sales finance company. According to the application, the incorporation of Applicant was the first step in the conversion of IAC into a Canadian chartered bank. The conversion is to be consummated at the end of a transitional period of up to ten years by a statutory amalgamation of Applicant and IAC.

During such transition period IAC is to divest itself of any assets which a Canadian chartered bank is not permitted to hold and to discharge any liabilities, which it can legally discharge, which could not have been incurred by a Canadian chartered bank.

According to the application, IAC was incorporated under the laws of Canada on February 7, 1925. Its business consists, *inter alia,* of mortgage lending, consumer lending, wholesale and retail sales financing, commercial loans, and financial leasing directly and through subsidiaries in all ten Canadian provinces through 140 branch offices. As of December 31, 1978, IAC had consolidated assets of 3.1 billion Canadian dollars ("C$") of which approximately C$2.8 billion or 85 percent of its assets consisted of loans. Applicant states that interest income on such loans represented 90 percent of IAC's consolidated revenues for the year ending December 31, 1978. As of December 31, 1978, IAC had approximately 13.6 million common shares and over 521,000 preferred shares issued and outstanding. Applicant represents that over 97 percent of such shares are held by Canadian residents.

The application states that IAC has financed its lending operations primarily by the sale in Canada, the United States and elsewhere in the world, of secured notes, unsecured debentures and subordinated debentures and that IAC at the time of the filing of the application had C$2.3 billion of such debt outstanding. $590 million United States dollars of such securities were issued in the United States and were outstanding and payable at the offices of Morgan Guaranty Trust Company of New York. The application states that IAC issued such securities pursuant to exemptions for commercial paper and private placements contained in the Securities Act of 1933 ("1933 Act") and that such securities have been purchased by institutional and sophisticated investors in principal amounts of not less than C$500,000. The application further asserts that IAC is exempted from the Act's definition of investment company by Section 3(c)(5) of the Act, relating in pertinent part, to sales finance transactions.

Applicant states that the legislation incorporating Applicant provides rules which will govern the operation of Applicant and IAC during the transitional period prior to their statutory amalgamation. Among those rules is a requirement that, after Applicant commences operation, all business of IAC which is eligible for a Canadian chartered bank must be conducted by Applicant and that IAC may not engage in such business. Approximately 85 percent of IAC's business is eligible for a Canadian chartered bank under the Bank Act of Canada ("Bank Act") which gives Applicant total assets in excess of C$1.5 billion as of January 31, 1980. The application states that the transitional period, which may be up to ten years,

has two purposes: (1) to permit a restructuring of the funding of IAC's assets by retiring, in ordinary course, outstanding indebtedness and financing new business of Applicant through acceptance of deposits and issuance of notes, and (2) to provide IAC with time to dispose of assets which are not permissible for Canadian chartered banks and to allow Applicant to develop eligible assets. The application further states that Applicant will gradually expand its traditional consumer and commercial banking services over the next few years. Applicant notes that although it may closely resemble a sales finance company at its inception, at the end of three or four years of operation Applicant will be the same as other Canadian commercial banks in all material respects.

Applicant states that it now offers a full range of banking services to its customers, including: deposit taking and checking facilities; a full range of corporate, commercial and consumer loans; mortgage financing; safekeeping facilities; letters of credit; travellers' checks; bankers' acceptances and foreign exchange. Applicant further states that substantially all of its liabilities for borrowed money consist of deposits of its customers, and that 90 percent of its business is conducted in Canada with Canadian nationals.

The application states that banking in Canada is a matter of exclusive federal jurisdiction and that each of the 12 chartered banks in Canada was incorporated by an act of the Canadian Parliament and is regulated under the Bank Act. According to the application, the Bank Act contains provisions relating to all aspects of Canadian banking, including the business and powers of chartered banks and detailed regulations concerning: allowable loans, shareholders, directors, capital stock and debentures, maintenance of reserves, auditing requirements, financial disclosure and regular inspection by the Inspector General of Banks. The application further states, with respect to reserve requirements, that Canadian chartered banks are required to maintain primary reserves with the Bank of Canada (the central bank established by the Canadian federal government) in the form of cash and non-interest bearing deposits. Primary reserves must equal at least 12% of demand deposit liabilities payable in Canadian currency and 4% of notice deposit liabilities payable in Canadian currency. According to the application, secondary reserves in the form of cash, short-term treasury bills of Canada and secured day loans to selected investment dealers in an amount set by the Bank of Canada (currently 5 percent of all deposit liabilities payable in Canadian currency) must also be maintained by Canadian chartered banks.

The application also states that while Canadian chartered banks do not participate in the Canadian securities business, they traditionally have participated in the distribution of their own securities and those of affiliated issuers.

According to the application, banking laws in Canada historically have been subject to revision every 10 years. Legislation amending the Bank Act has been introduced by Parliament which would expand the powers of Canadian chartered banks, increase the regulatory powers of the Inspector General of Banks, and increase the reporting requirements and other types of regulation to which Canadian chartered banks currently are subject.

Applicant proposes to issue both short-term promissory notes ("Short-term notes") of the type generally referred to as commercial paper, and longer-term promissory notes ("Longer-term notes") (hereinafter, the Short-term notes and Longer-term notes are collectively referred to as "Notes") in large denominations in either bearer or registered form. The Notes will generally be sold through United States investment bankers; however, from time to time Applicant may sell such Notes directly to institutional and other sophisticated investors. Applicant intends that the terms of Short-term notes, including negotiability and minimum denomination, will be such as to qualify them for exemption from registration under Section 3(a)(3) of the 1933 Act and the Longer-term notes will be sold on such terms as to qualify for exemption from registration under Section 4(2) of the 1933 Act. Applicant states that the Short-term notes will have minimum denominations of $100,000, fixed maturities not longer than 270 days from the date of issuance, will not be renewable or extendable beyond 270 days either automatically or at the option of the issuer or holder, and will not be payable upon demand. Applicant also states that the Short-term notes and all future public issues of securities of Applicant in the United States shall have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that its United States counsel shall have certified that such rating has been received; provided, however, that no such rating shall be required to be obtained if in the opinion of United States counsel (having taken into account for the purpose thereof the doctrine of integration as referred to in various releases and no-action letters made public by the Commission) an exemption from registration is available with respect to such issue pursuant to Section 4(2) of the 1933 Act. Further, Applicant states that it will not sell the Short-term notes until it has received an opinion of its United States counsel to the effect that, under the circumstances of the proposed offering, the notes would be entitled to an exemption under Section 3(a)(3) of the 1933 Act. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant represents that the Notes will be sold only to institutional or other sophisticated investors, will be direct liabilities of Applicant and will rank *pari passu* among themselves and equally with all deposit liabilities of Applicant, other than deposits by the Government of Canada or a province thereof, and with all other unsecured, unsubordinated indebtedness of Applicant. The Notes will rank prior to subordinated indebtedness of Applicant and to claims of holders of Applicant's common and preferred shares. The Short-term notes will be prime quality negotiable commercial paper and the proceeds of the Short-term notes will be used to finance current transactions.

Applicant undertakes to ensure that the investment bankers with which it deals in the United States will provide to each offeree of the Short-term notes a memorandum describing the business of Applicant and containing a balance sheet and income statement of Applicant. Applicant states that such financial statements will be accompanied by a brief paragraph highlighting the differences between Canadian accounting principles and generally accepted accounting principles employed by United States companies. Such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States and will be updated periodically to reflect material changes in Applicant's financial status. With respect to the private placement of the longer-term notes, Applicant undertakes to provide each offeree with disclosure documentation appropriate to secure an exemption under Section 4(2) of the 1933 Act, but in any event at least as comprehensive as the aforementioned memorandum. Applicant states that, from time to time, it may offer other

securities (other than shares of its equity securities) for sale in the United States and undertakes that any offerings of such securities will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration. In addition, any such offering will be made on the basis of appropriate disclosure documents which will be at least as comprehensive as those documents which will be used in the presently-proposed offerings.

Applicant undertakes that it will appoint special United States counsel as its agent to accept service of process in any action based on the Notes and instituted in any state or federal court by the holder of any of the Notes. Applicant represents that with respect to such an action it will expressly accept the jurisdiction of any state or federal court in the City and State of New York and that such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicant. Applicant further undertakes, as to any future offering of its securities in the United States, to appoint an agent to accept any process which may be served in any action based on such securities and instituted in any state or federal court by any holder of any such security and will expressly accept jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Such undertakings shall be irrevocable as long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid.

Section 3(a)(3) of the Act provides, in pertinent part, that an issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis is an investment company. Applicant asserts that only if its commercial loans are considered to be "securities" within the meaning of Section 2(a)(36) of the Act could any question be raised concerning its status as an investment company as defined by the Act.

Section 3(b)(2) of the Act provides, in pertinent part, that notwithstanding the definition of investment company contained in Section 3(a)(3) of the Act, an issuer is not an investment company if the Commission, upon application by such issuer, finds and by order declares it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities.

Applicant argues that even if its commercial loans are deemed to be securities, it would nevertheless be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities. Accordingly, Applicant requests an order of the Commission pursuant to Section 3(b)(2) of the Act. Applicant submits that the commercial lending relationships between Applicant and its customers go far beyond the somewhat passive concept of investing in, owning, or holding the securities presumably represented by the loans. Applicant further submits that it will be engaged in a variety of traditional banking activities such as consumer and personal lending and that, therefore, Applicant is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

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 provisions of the Act and of the rules thereunder, if and to the extent that 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.

Alternatively, Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant asserts that it is requesting such an order of the Commission because of uncertainty concerning whether foreign banks would be defined as "investment companies" under the Act. Applicant submits that granting the requested exemption would benefit both Applicant and institutional and other sophisticated investors in the United States securities markets, and asserts that provisions of the Act are incompatible with the capital structure of Applicant as required by the Bank Act. Applicant further asserts that it is extensively regulated under the Bank Act by the Inspector General of Banks and the Bank of Canada, and that such regulation provides greater investor protection than do the provisions of the Act. Applicant also contends that it is a significantly different type of institution than an investment company and that the abuses which Congress intended to prevent through the Act do not arise in the course of Applicant's bank operations. Applicant submits that based on all the facts and circumstances, granting a conditional exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed to having any order granting its requested relief, pursuant to either Section 3(b)(2) or Section 6(c) of the Act, being conditioned upon Applicant complying with the above described undertakings regarding disclosure documents.

Notice is further given that any interested person may, not later than December 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued (pursuant to Section 6(c) of the Act) as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38630 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11477; 812-4711]

Florida Mutual U.S. Government Securities Fund, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

December 4, 1980.

Notice is hereby given that Florida Mutual U.S. Government Securities Fund, Inc. ("Applicant"), Suite 1507, Landmark Bank Bldg, One Financial Plaza, Ft. Lauderdale, Florida 33394, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 13, 1980, with an amendment thereto on October 15, 1980, for an order of the Commission pursuant to Section 6(c) of the Act exempting its proposed money market fund portfolio ("Portfolio I") from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit calculation of the net asset value per share of Portfolio I using the amortized cost method of valuing portfolio securities. 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.

According to the application, Applicant is a corporation, organized and existing under the laws of the State of Florida, that has not yet commenced a public distribution of its shares. Applicant states that it intends to operate Portfolio I, one of its two proposed portfolios of investment securities, as a "money market" fund, offering investors a convenient means to invest in a professionally managed portfolio of obligations issued by, or guaranteed as to principal and interest by, the United States government, its agencies or instrumentalities ("U.S. government obligations"). Applicant also states that it will seek to obtain as high a level of current income as is consistent with the preservation of principal and liquidity within the standards prescribed for Portfolio I.

Applicant represents that it intends that its investments will consist of two portfolios, differentiated by the maturity of their permitted investments, and that all of its assets will be invested in U.S. government obligations. The permitted investments of Portfolio I will be U.S. government obligations maturing within one year or less, so long as the dollar-weighted average portfolio maturity is 120 days or less. Applicant further states that Portfolio I may: (1) engage in repurchase agreements collateralized by U.S. government obligations with a maturity in excess of one year; (2) make loans of its portfolio securities; (3) engage in reverse repurchase agreements; and (4) purchase U.S. government obligations on a "when-issued" basis. Applicant represents that it will comply with the requirements of Investment Company Act Release No. 10666 where that release applies to such transactions. Applicant states that it may also purchase "floating rate" U.S. government obligations for Portfolio I when and if a satisfactory method is determined for ascertaining the maturity of such instruments for the purpose of the amortized cost method of valuation.

Applicant states that it will declare the net income of Portfolio I as a dividend on each business day and that accrued dividends for a month will be paid on the last business day of that month. Dividends will be reinvested automatically (unless otherwise instructed by the shareholder) in additional shares of the appropriate portfolio at the net asset value next determined after the date on which dividends are paid. Net income of each portfolio will consist of interest accrued or discount earned (including both original issue and market discount), less amortization of premium and estimated, accrued expenses of Applicant allocated to each portfolio's operations.

Since Applicant does not intend to include realized and unrealized gains and losses on securities in Portfolio I in the net income of the portfolio for dividend purposes, Applicant will endeavor to reduce the amount of unrealized gains and losses in Portfolio I which result from interest rate changes by maintaining a dollar-weighted average portfolio maturity in Portfolio I of 120 days or less. Applicant proposes to value the securities in Portfolio I by means of the amortized cost method of valuation, subject to the conditions enumerated below.

Applicant represents that professional, institutional, and other sophisticated investors comprise an important source of its potential investors. Applicant anticipates that in order to attract and retain such investors, it must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income.

Applicant states that Portfolio I will consist of securities maturing within one year or less, so long as the dollar-weighted average maturity of the portfolio is 120 days or less. Applicant asserts that, with respect to securities maturing within one year or less, there normally is a negligible discrepancy between market value and the amortized cost of such securities. Applicant believes that valuation of the securities in Portfolio I on the basis of amortized cost will benefit its shareholders by enabling it to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned. Applicant states that its board of directors has determined in good faith that, in light of the characteristics of Applicant described above and, subject to compliance with the conditions listed below, the amortized cost method of valuing portfolio securities is appropriate and preferable for Portfolio I and reflects fair value of its securities, absent unusual or extraordinary circumstances.

As here pertinent, Section 2(a)(41) of the Act defines value to mean (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company, used in computing its price for the purposes of distribution, redemption and repurchase, shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 futher states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filings of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent,

generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that 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. Applicant requests an order, pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1(a) thereunder to the extent necessary to permit Portfolio I to value its assets using the amortized cost method of valuation.

Applicant has agreed to adhere to the following conditions in any order of the Commission granting the exemptive relief requested.

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included within the procedures adopted by the board of directors are the following duties and responsibilities:

(a) Review by the board of directors as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if, any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in marterial dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' consideration and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

(6) Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant submits that its use of the amortized cost method of valuing its securities in Portfolio I, subject to the conditions enumerated above, will benefit its shareholders by enabling it to maintain more effectively a $1.00 per share purchase and redemption price while simultaneously providing the opportunity for a steadier flow of investment income to shareholders. Applicant asserts that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 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.

[1] Applicant states that to fulfill this condition it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be apropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include, *inter alia* (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38631 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21821; 70-6326]

Middle South Utilities, Inc.; Proposal To Merge Associate Public Utility Companies

In the Matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203; Arkansas-Missouri Power Company, 405 West Park Street, Blytheville, Arkansas 72315; and Associated Natural Gas Company, 405 West Park Street, Blytheville, Arkansas 72315.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Arkansas Power & Light Company ("AP&L") and Arkansas-Missouri Power Company ("Ark-Mo"), each a public utility subsidiary of Middle South, and Associated Natural Gas Company ("Associated"), a public utility subsidiary of Ark-Mo, have filed a joint application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 3(a)(2), 6, 7, 9(a), 10, 12(b), 12(d) and 12(f) of the Act and Rules 2(a)(2), 43, 44, 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South presently owns all the outstanding common shares of AP&L and Ark-Mo. Ark-Mo, in turn, owns all the outstanding common shares of Associated. It is proposed that Ark-Mo will be merged into AP&L with Associated becoming a wholly owned subsidiary of AP&L.

The properties of AP&L consist of facilities for the generation, transmission and distribution of electric power and energy and other property necessary to repair, maintain and operate those facilities for the furnishing of electricity to the public. These facilities extend into 62 of the 75 counties in Arkansas. AP&L also provides electric service in a small area of Tennessee. As of July 31, 1980, AP&L provided electric service to 470,401 customers.

Ark-Mo operates facilities for the generation, transmission and distribution of electric power and energy and other property necessary to repair, maintain and operate those facilities for the furnishing of electricity to the public. These facilities extend into 8 counties in northeastern Arkansas and 12 counties in southeastern Missouri. Ark-Mo's generating capacity is limited, its largest generating station consisting of three gas turbines with a net capability of 188 MW and operated by Ark-Mo under a long-term net lease. The properties operated by Ark-Mo are contiguous to, and physically interconnected with, those of AP&L. During the twelve months ended July 31, 1980, the other operating subsidiaries of Middle South, including AP&L, provided through AP&L's transmission system approximately 22 percent of Ark-Mo's energy requirements. As of July 31, 1980, Ark-Mo provided electric service to 59,130 customers.

Associated owns and operates natural gas transmission and distribution facilities in parts of northeastern Arkansas and southeastern, western and northern Missouri. As of July 31, 1980, Associated provided natural gas service to 61,364 customers.

In order to reduce duplication of corporate organization, accounting and operation and to consolidate into one corporate entity, in the interest of increased economic efficiency, electric operations which, with minor exceptions, are already operated as an integrated system, AP&L proposes to acquire all the outstanding shares of common stock of Ark-Mo from Middle South and to effect the liquidation and dissolution of Ark-Mo and the distribution of its assets to AP&L, including the outstanding shares of common stock of Associated ("Associated Common Stock") held by Ark-Mo. The consummation of these proposed transactions is expected to occur on or about January 1, 1981.

Ark-Mo's proprietary capital, long-term debt (including current maturities) and short-term debt as of July 31, 1980, were in each case as follows:

Proprietary capital	
Common stock—$2.50 par value; authorized, 7,000,000 shares; issued and outstanding, 4,691,988 shares	$11,729,970
Paid-in surplus	7,483,345
Retain earnings (including unappropriated, undistributed subsidiary earnings)	7,947,719
Total proprietary capital	27,161,034
Long-term debt	
First Mortgage Bonds:	
Series E, 4½%, Due 1983	1,202,000
Series F, 5½%, Due 1988	598,310
Series G, 5⅝%, Due 1990	1,400,000
Series H, 6¼%, Due 1996	3,560,000
Series I, 9¾%, Due 2000	4,600,000
Series J, 8¾%, Due 1998	9,800,000
	21,160,310
Debentures:	
5⅛%, Due 1963	340,000
7%, Due 1993	3,500,000
Total debentures	3,840,000
Total long-term debt	25,000,310
Short-term debt	
Notes payable to banks	11,000,000
Notes payable to Middle South	2,100,000
Total short-term debt	13,100,000

In anticipation of the proposed consolidation between AP&L and Ark-Mo, Ark-Mo proposes to issue and sell, and Middle South proposes to acquire from Ark-Mo, at a price of $2.50 per share, or $5,750,000 in the aggregate, 2,300,000 additional shares of the authorized but unissued common stock, $2.50 par value, of Ark-Mo. As consideration for such shares, Middle South will pay to Ark-Mo $3,650,000 in cash and will surrender to Ark-Mo for cancellation $2,100,000 principal amount of unsecured promissory notes previously issued and sold by Ark-Mo and acquired by Middle South, representing all outstanding promissory notes issued by Ark-Mo and held by Middle South. Upon consummation of the sale by Ark-Mo to Middle South of the additional shares of its common stock, Ark-Mo would immediately thereafter apply the $3,650,000 cash proceeds, together with other funds available to Ark-Mo, to the redemption, at the applicable redemption prices, of its two outstanding series of debentures which, as of July 31, 1980, aggregated $3,840,000 in principal amount. These preliminary transactions would have the effect, as of July 31, 1980, of increasing the total number of outstanding shares of Ark-Mo's common stock to 6,991,988, of increasing the amount of Ark-Mo's total proprietary capital by $5,750,000 to $32,911,034 and of eliminating debentures from Ark-Mo's capital structure.

Middle South, AP&L and Ark-Mo thereafter propose to enter into an Agreement and Plan of Consolidation of Electric Properties ("Plan") which would constitute a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1954, as amended. Pursuant to the Plan, and as the initial step, Middle South would effectuate an exchange with AP&L of all of Arl-Mo's then outstanding 6,991,988 shares of common stock, $2.50 par value ("Ark-Mo Stock"), for additional shares of common stock, $12.50 par value ("Additional Common Stock"), of AP&L. The number of shares of the Additional Common Stock to be issued and exchanged by AP&L with Middle South will be determined by dividing the book value per share of the Additional

Common Stock into the net book value of Ark-Mo, including its investment in Associated, on or about the date of exchange of shares. As of July 31, 1980, the net book value of Ark-Mo, including its investment in Associated, after giving effect to the sale by Ark-Mo to Middle South of the 2,300,000 shares of Ark-Mo's common stock, would be $32,911,034.

As soon as practicable after the exchange of shares, and as the second step under the Plan, AP&L, as sole holder of the Ark-Mo Stock, proposes to cause Ark-Mo to be liquidated and dissolved and its assets distributed, in kind, to AP&L in accordance with the provisions of the Arkansas Business Corporation Act. Accordingly, Ark-Mo proposes to sell, convey, transfer and assign to AP&L all of its right, title and interest in and to all of its properties, both real and personal, including any and all franchises, permits, utility easements, rights-of-way, leases and lease-hold interests, any and all contracts, cash on hand and in banks, the Associated Common Stock held by Ark-Mo and a 7½ percent Subordinated Note due March 15, 1993 of Associated in the principal amount of $4,000,000 ("Associated Note") held by Ark-Mo. AP&L, in turn, proposes to deliver and surrender to Ark-Mo, for retirement and cancellation, the Ark-Mo Stock held by AP&L and to assume all of Ark-Mo's then outstanding liabilities and obligations, including all contractual commitments and lease obligations and obligations with respect to Ark-Mo's then outstanding short-term indebtedness represented by notes payable to banks, which, as of July 31, 1980, aggregated $11,000,000 in principal amount and which is expected to aggregate approximately $14,000,000 in principal amount at the time of such assumption of liability by AP&L.

Concerning the proposed assumption by AP&L of Ark-Mo's short-term bank indebtedness, AP&L has received authorization from the Commission to issue and sell short-term notes to various banks and commercial paper to a dealer in commercial paper in an aggregate principal amount at any one time outstanding not to exceed the lesser, from time to time, of $170,000,000 or 10 percent of AP&L's capitalization (HCAR No. 21811). The authorization requested herein, insofar as it provides for the assumption by AP&L of liability on Ark-Mo's short-term borrowings from certain of the same banks with whom AP&L will maintain separate lines of credit, is intended to constitute a separate and additional authorization for short-term borrowings by AP&L from those banks, subject to the above limitation that the total principal amount of short-term borrowings issued or assumed by AP&L at any one time outstanding may not exceed the lesser, from time to time, of $170,000,000 or 10 percent of AP&L's capitalization.

With respect to Ark-Mo's then outstanding six series of first mortgage bonds ("Ark-Mo Bonds"), AP&L will be deemed to have assumed liability on the Ark-Mo Bonds as a consequence of the liquidation of Ark-Mo and distribution of its assets to AP&L and in contemplation of the proposed exchange by AP&L immediately thereafter of its first mortgage bonds for the Ark-Mo Bonds in the following manner.

In the final step under the Plan, AP&L proposes to issue six new series of its first mortgage bonds ("AP&L 1983—2000 Series Bonds") bearing interest at the same rates, maturing on the same dates and to be issued in the same principal amounts as the Ark-Mo Bonds.

The AP&L 1983—2000 Series Bonds will be issued in exchange, on a series for series and principal amount for principal amount basis, for the then outstanding Ark-Mo Bonds.

The AP&L 1983—2000 Series Bonds are proposed to be created under and pursuant to AP&L's Mortgage and Deed of Trust, dated as of October 1, 1944, to Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York) and Henry A. Theis (John W. Flaherty, successor), as Trustees, as supplemented by all indentures supplemental thereto, including a thirty-third supplemental indenture ("AP&L Mortgage"). The maturity dates, annual rates of interest, interest payment dates and redemption prices applicable to the AP&L 1983—2000 Series Bonds would be the same as those presently applicable to the corresponding Ark-Mo Bonds being surrendered in exchange therefor, and the sinking fund provisions applicable to the AP&L 1983—2000 Series Bonds would be substantially similar to those applicable to the Ark-Mo Bonds. In other respects, it is contemplated that the AP&L 1983—2000 Series Bonds would have terms and provisions, including those relating to dividend restrictions and limitations on the issuance of additional bonds, which are similar to those applicable to first mortgage bonds currently outstanding under the AP&L Mortgage.

In exchange for the delivery to the holders of the Ark-Mo Bonds of the AP&L 1983—2000 Series Bonds, such holders would deliver and surrender to the corporate trustee under the Ark-Mo Mortgage, for retirement and cancellation, all the Ark-Mo Bonds, whereupon Ark-Mo's Indenture of Mortgage, dated December 1, 1944, as supplemented, under which the Ark-Mo Bonds were issued ("Ark-Mo Mortgage"), would be immediately satisfied and discharged and cease to be of any further effect. The satisfaction and discharge of the Ark-Mo Mortgage would free for use as a basis for the issuance of additional first mortgage bonds under the AP&L Mortgage, upon consummation of the Plan, property which is currently subject to the lien of the Ark-Mo Mortgage.

All of the Ark-Mo Bonds were originally issued and sold by Ark-Mo in private placement transactions and are currently held by a total of 23 persons, consisting principally of insurance companies, banks and other institutional investors or their nominees. In view of the uniqueness and complexity of the proposed bond exchange arrangements, Ark-Mo contemplates retaining Lehman Brothers Kuhn Loeb Incorporated, New York, N.Y. ("Lehman Brothers"), as financial advisor to assist Ark-Mo in obtaining the consent of the holders of the Ark-Mo Bonds to the delivery and surrender for cancellation of their securities in exchange for the AP&L 1983–2000 Series Bonds. It is anticipated that the formal consent of such holders to the terms of the exchange would be evidenced by their separate execution of a Bond Exchange Agreement, pursuant to which AP&L would issue to such holders the AP&L 1983–2000 Series Bonds and the Ark-Mo Bonds would be delivered and surrendered for cancellation. The Bond Exchange Agreement would provide that no such exchange of securities would be effected unless all holders of the Ark-Mo Bonds agree to the exchange.

Upon consummation of the Plan, AP&L will continue to provide electric service to Ark-Mo's customers and will be the sole holder of the Associated Common Stock and the Associated Note. As the parent company of Associated, AP&L will continue efforts to effect the disposition of the natural gas business conducted by Associated, either through a sale of its assets or of the Associated Common Stock, pursuant to the Commission's May 5, 1971 order (Holding Company Act Rel. No. 17116).

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that the proposed transaction is subject to the jurisdiction of the Arkansas Public Service Commission, the Missouri Public Service Commission and the Tennessee Public Service Commission. It is further stated that no other state of federal regulatory

authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later that December 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38632 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 33-6269]

Procedures Applicable to Requests for No-Action and Interpretive Letters

In Release No. 33-6253 (October 28, 1980) [45 FR 72644], the Commission described certain procedures recently adopted by the Division of Corporation Finance for responding to all requests for no-action and interpretive letters, except those involving shareholder proposals. The new response procedure involves the use of an endorsement to the incoming letter as a method of reply. Rather than preparing a response in the format of a letter reciting the salient facts of the request and setting forth the position of the Division regarding the issues raised, the Division simply sets forth its position on the issues raised on either the last page of the incoming letter or on a separate page attached at the end of that letter. This new response procedure was instituted in order to make more efficient use of the Division's resources while continuing to provide no-action and interpretive letter advice upon request.

The use of the endorsement procedure has necessitated providing a copy of the requestor's letter, as well as the Division's endorsement response, to all persons within the Commission who receive copies of the Division's no-action and interpretive letters as a matter of record (e.g., the Public Reference Section, certain Regional Offices, etc.). This has placed a new burden on the Division's staff—that of providing multiple photocopies of the requestor's letter. To alleviate this burden, henceforth all persons who request no-action or interpretive letters from the Division should submit an original and seven copies of their request to the following address: Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

In Release No. 33-5127 (January 25, 1971) [36 FR 2600], the Commission specified certain procedures to be followed by persons submitting requests for no-action or interpretive letters. The Commission is taking this opportunity to remind requestors of the following procedures:

1. The specific subsection of the particular statute to which the letter pertains should be indicated in the upper right-hand corner of the original and each copy of the letter submitted.

2. The names of the company or companies and all other persons involved should be stated. Letters relating to unnamed companies or persons, or to hypothetical situations, will not be answered.

3. Letters should be limited to the particular situation involving the problem at hand, and should not attempt to include every possible type of situation which may arise in the future.

4. While it is essential that letters contain all of the facts necessary to reach a conclusion in the matter, they should be concise and to the point.

5. The writer should indicate why he thinks a problem exists, his own opinion in the matter and the basis for such opinion.

6. If a request for confidential treatment is made, this request and the basis therefor should be included in a separate letter and submitted with the no-action request letter.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 5, 1980.

[FR Doc. 80-38633 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21826; 70-5868]

Public Service Company of Oklahoma and Ash Creek Mining Co.; Proposal To Extend and Increase Short-Term Loans To Mining Subsidiary

December 5, 1980.

Public Service Company of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, and Ash Creek Mining Company ("Ash Creek") P.O. Box 201, Tulsa, Oklahoma 74102, a mining subsidiary of PSO, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended pursuant to Sections 6, 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 promulgated thereunder concerning the following proposed transaction.

By order dated November 30, 1976 (HCAR No. 19777), PSO was authorized to organize and acquire all of the authorized common stock of Ash Creek, and to transfer to Ash Creek all of its existing coal interests in exchange for Ash Creek's common stock in an aggregate par value equal to PSO's capital costs relating to the coal interests. PSO transferred to Ash Creek properties having a cost basis of $3,839,040 in return for 383,904 shares of Ash Creek's common stock, par value $10 per share. Additional properties have not yet been transferred and remain in PSO ownership. PSO was also authorized to make short-term loans to Ash Creek, through December 31, 1977, in the form of either open account advances or evidenced by notes, in an aggregate amount not to exceed $12,500,000 at any one time outstanding, to finance Ash Creek's fuel programs. That authorization has subsequently been extended pursuant to supplemental orders (HCAR Nos. 20329, 20414, 20476, 20505, 20568, 20646, 20710, 20754, 20863, 20926, 20975, 21049, 21364, 21486, 21556, 21640 and 21724). In the latest such supplemental order dated September 23, 1980 (HCAR No. 21724), PSO was authorized to continue its financing of Ash Creek through December 31, 1980, in the maximum principal amount of $1,425,000 outstanding at any one time.

By post-effective amendment applicants-declarants request an

extension of PSO's authorization to finance Ash Creek through December 31, 1981, in the maximum principal amount of $1,975,000 outstanding at any one time. Said amount includes approximately $1,425,000 outstanding of such loans expected to be outstanding at December 31, 1980, and $550,000 to cover budgeted expenditures through December 31, 1981.

The reason for such loans is continued and indefinite suspension of mining operations at Ash Creek, pending the securing of permission from the Wyoming Department of Environmental Quality for coal trucks to use the state highway serving Ash Creek's proposed coal outloading facility for PSO mine No. 1 near Sheridan, Wyoming, and the availability of federal coal leasing on PSO's States Ranch property. Accordingly, Ash Creek has not budgeted expenditures for further coal exploration and mine development activities or for construction of a coal outloading facility. Expenditures are needed, however, for maintenance and administrative costs required to maintain the interests of Ash Creek and PSO.

It is stated that PSO and Ash Creek do not contemplate further development of the coal interests described in this filing, and that they continue to hold and maintain them until they can negotiate a satisfactory sale of the interests to a non-affiliate. Such sale is contemplated irrespective of any actions taken by the Wyoming Department of Environmental Quality with respect to the coal outloading facility and irrespective of any possible future availability of a federal coal leasing program on PSO's States Ranch property.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $400 in legal fees. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 30, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated 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-declaration as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38633 Filed 12-11-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1930; Amdt. No. 1]

Alaska; Declaration of Disaster Loan Area

The subject declaration (see 45 FR 66938) is hereby amended by extending the termination date from November 28, 1980, to December 31, 1980 for filing applications for loans for physical damage, and extending the economic injury date from June 26, 1981, to July 27, 1981. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 5, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-38532 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposal No. 05/05-0150]

DBT Capital Corp.; 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 (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1980)) by DBT Capital Corporation, 211 W. Fort Street, Detroit, Michigan 48226, 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 sole shareholder are:

Name and address	Title and relationship	Percent of ownership
DBT Financial Services Corporation, 211 W. Fort Street Detroit, Michigan 48226.	Parent Company	100.
Detroit Bank & Trust Company, 211 W. Fort Street, Detroit Michigan 48226.	Parent Company of DBT Financial Services Corporation.	100 through attribution.
John D. Berkaw, 211 W. Fort Street Detroit, Michigan 48226.	President, Treasurer, Director and Member of the Investment Committee.	None.
Rollo G. A. Fisher, 211 W. Fort Street, Detroit, Michigan 48226.	Member of the Investment Committee	None.
Bruce R. Gibson, 211 W. Fort Street, Detroit, Michigan 48226.	Secretary	None.
Joseph G. Horonzy, 211 W. Fort Street, Detroit, Michigan 48226.	Director and Member of the Investmend Committee.	None.
Thomas R. Johnson, 211 W. Fort Street, Detroit, Michigan 48226.	Chairman of the Board Director and Member of the Investment Committee.	None.
Manown Kisor, Jr., 211 W. Fort Street, Detroit, Michigan 48226.	Member of the Investment Committee	None.
James R. Waterston, 211 W. Fort Street, Detroit, Michigan 48226.	Director and Member of the Investment Committee.	None.

Detroit Bank & Trust Company is a subsidiary of DETROITBANK Corporation. DETROITBANK Corporation, formed in 1973, is a multi-bank holding company with ten bank or bank-related subsidiaries. Its largest bank, Detroit Bank & Trust Company, has been servicing the metropolitan Detroit area continuously since its founding in 1849.

The Trust Department of Detroit Bank & Trust Company is one of the oldest and largest in the midwest with trust assets in excess of $4 billion. Additionally, five other subsidiary banks serve the southeastern Michigan market in the cities of Livonia, Southfield, Sterling Heights, Troy and Warren; and two subsidiary banks serve the western Michigan communities of Kentwood and Muskegon.

DETROITBANK Corporation ranks among the nation's leading bank holding companies. At year end 1979, its equity capital had grown to $311 million, and assets exceeded $5 billion.

The Applicant will begin operations with a capitalization of $1.0 million and will be a source of equity capital and long term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

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 Associate Administrator for 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 Detroit, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 5, 1980.

Michael K. Casey,

Associate Administrator for Investment.

FR Doc. 80-38536 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1955]

Iowa; Declaration of Disaster Loan Area

Cass and Pottawattamie Counties and adjacent counties within the State of Iowa constitute a disaster area as a result of high winds, hail and rain that occurred on July 4, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 5, 1981 and for economic injury until September 7, 1981, at:

Small Business Administration, District Director, 210 Walnut Street, Room 749, Des Moines, Iowa 50309

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated December 5, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-38530 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1960]

New Hampshire; Declaration of Disaster Loan Area

Rockingham County and adjacent counties within the State of New Hampshire constitute a disaster area as a result of damage caused by severe coastal storm with heavy rains and high winds which occurred on October 25, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 6, 1981, and for economic injury until the close of business on September 8, 1981, at:

Small Business Administration, District Office, 55 Pleasant Street, Concord, New Hampshire 03301

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 8, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-38533 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1958]

New Mexico; Declaration of Disaster Loan Area

The following four counties and adjacent counties within the State of New Mexico constitute a disaster area as a result of natural disasters as indicated:

County	Natural disaster(s)	Date(s)
Curry	Drought	6/1/80-9/25/80.
Roosevelt	do	6/1/80-9/25/80.
Torrance	do	6/1/80-10/27/80.
Union	do	6/1/80-10/2/80.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 5, 1981, and for economic injury until the close of business on September 7, 1981, at:

Small Business Administration, District Office, 5000 Marble Avenue NE., Patio Plaza Building, Albuquerque, New Mexico 87110

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 5, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-38531 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/11-0024]

New Mexico Capital Corp.; Filing of Application for Transfer of Control

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 (1980)) for transfer of control of New Mexico Capital Corporation, Suite 201, 2900 Louisiana Boulevard, N.E., Albuquerque, New Mexico 87110, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of control of New Mexico Capital Corporation, which was licensed September 23, 1963, is subject to the prior written approval of SBA.

Assuming consummation of the proposed transfer of control, the management of New Mexico Capital Corporation will be:

Name, Title, and Percent of Voting Securities

Phillip A. Larson, 176 Encinal Avenue, Atherton, Calif., 94025. President, Treasurer, Director, 100.

William R. Christy, 2900 Louisiana Blvd., NE., Albuquerque, New Mexico 87110. Executive Vice President, Secretary, none.

J. David Hakman, 815 Black Mountain Road, Hillsborough, Calif. 94010. Director, none.

Mr. Dorn Schmidt, The Harvest Corporation, Box 4265, Malibu, Calif. 90265. Director, none.

Victor Witt, 14780 Sky Lane, Los Gatos, Calif. 95030. Director, none.

Mr. Phillip Larson agreed to purchase 100 percent of the common stock of New Mexico Capital Corporation from Ms. Shirley Leslie and Mr. William Christy who own collectively 100 percent of New Mexico Capital Corporation's common stock.

New Mexico Capital Corporation will retain its corporate name and its office at Suite 201, 2900 Louisiana Boulevard, N.E., Albuquerque, New Mexico 87110.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the 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 transfer of control to the Associate Administrator for 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 Albuquerque, New Mexico.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 5, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-38529 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

Senior Executive Service Performance Review Board: Addition of a Member

AGENCY: Small Business Administration

ACTION: Notice—Listing of an Additional Member to Serve on this Agency's Senior Executive Service Performance Review Board.

SUMMARY: Public Law 95-454 dated October 13, 1978, (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). The following is a listing an additional member of this Agency's PRB: Kenneth G. Caplan, Associate General Counsel, Civil Aeronautics Board. For further information contact Ms. Frances H. Mendez, Director, Office of Executive Services, on (202) 653-6516.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-38537 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5371]

Watchung 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 (1980)), to transfer control of Watchung Capital Corporation, 120 Broadway, New York, New York 10005, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Watchung Capital Corporation was licensed on February 19, 1980, and has private capital of $500,000. The proposed transfer of control will be from Albert D. F. Chang, President, Director and 35 percent stockholder of Watchung to Chi-Chang Chen who will purchase Mr. Chang's stock.

The proposed officers, directors and stockholders will be:

Sheng Tsong Jeng, 171 Hickson Drive, New Providence, New Jersey 07974, President/Director, 35 percent.

Chi-Chang Chen, 10-3, 315 Lane, Shih Pai Road, Sec. 2, Pei Tou, Taipei, Taiwan, R.O.C., Director, 35 percent.

Chin Pao Huang, 2243 Calle Cordoba, Olivos, Vicente, Lopez, Providence, Buenos Aires, Argentina, 10 percent.

Jiann J. Houng, 47-50 59th Street, Woodside, New York 11377, Secretary/Treasurer, Director.

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 29, 1980, submit to SBA written comments on the proposed transfer of control. Any such communications should be addressed to the Associate Administrator for 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)

Dated: December 5, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-38535 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1959]

Wisconsin; Declaration of Disaster Loan Area

Clark, Jackson, La Crosse, Taylor and Trempealeau Counties and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by heavy rain, hail and flooding which occurred on September 19-21, 1980. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on February 6, 1981, and for economic injury until the close of business on September 7, 1981, at: Small Business Administration, District Office, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 5, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-38534 Filed 12-11-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

United States "Model" Estate and Gift Tax Treaty and Technical Explanation

The Treasury Department has released a revised "model" estate and gift tax treaty. The model, which represents the Treasury's basic negotiating position, replaces the similar model published by the Treasury Department on July 27, 1979, and applies to the Federal taxes on transfers of estates and gifts and on generation-skipping transfers. The major changes from the previous model are: deletion of articles on ships and aircraft and on partnerships, inclusion of a partnership and trust paragraph in the property not expressly mentioned articles, and a new marital deduction provision.

The general principle underlying the model is to grant to the country of domicile the right to tax estates and transfers on a worldwide basis. The model provides rules for resolving cases of dual domicile. Transfers of real property and certain business assets are taxable also in the country where they are situated. To avoid double taxation, the treaty provides for a credit by the country of domicile for tax paid to the other country with respect to property taxed on a situs basis. The model also allows the country of citizenship the right to tax the estate or transfers of a decedent or transferor, but requires it to allow a credit for tax paid to the other State.

The Treasury Department released simultaneously a technical explanation which serves as a guide to the model.

The Treasury Department welcomes comments on the model and technical explanation. Comments should be sent in writing to H. David Rosenbloom, International Tax Counsel, U.S. Treasury Department, Washington, D.C. 20220.

Dated: December 8, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-38550 Filed 12-11-80; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Energy Regulatory Commission	2
Federal Maritime Commission	3
Federal Reserve System	4
Nuclear Regulatory Commission	5
Securities and Exchange Commission	6

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND PLACE: 9:30 a.m. (eastern time), Tuesday, December 16, 1980.

PLACE: Commission conference room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 80-6-FOIA-349, concerning a request by an attorney for several documents in a closed age file.
2. Freedom of Information Act Appeal No. 80-10-FOIA-6-SL, concerning a request by a charging party for access to intra-office memoranda from his Title VII file.
3. Freedom of Information Act Appeal No. 80-10-FOIA-009-NY, concerning the request of the representative for three charging parties for closed age complaint files.
4. Report on Commission Operations by the Executive Director.

Closed to the public:

1. Litigation Authorization; General Counsel Recommendations.
2. Withdrawal of Certain Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued December 9, 1980.

[S-2278-80 Filed 12-10-80; 1:51 pm]

BILLING CODE 6570-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

December 10, 1980.

TIME AND DATE: 11 a.m., December 12, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. CP80-292, Consolidated Gas Supply Corp.; Docket No. CP80-329, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Docket No. CP80-473 and RP80-126, Equitable Gas Co.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

[S-2281-80 Filed 12-10-80; 3:22 pm]

BILLING CODE 6450-85-M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., December 17, 1980.

PLACE: Hearing room one, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Matson Navigation Company 8.5 Percent General Rate Increase Between U.S. West Coast Ports and Ports in Hawaii.
2. Agreement No. 10320-2: Petition for Reconsideration of Commission Order of March 24, 1980. Agreement No. 10320-3: Modification of the Brazil/U.S. Gulf Pool Agreement, modifying pool shares. Agreement No. 10320-4: Modification of the basic agreement extending same and modifying pool shares.
3. Agreement No. 9848-10: Modification and extension of the U.S. Gulf/Brazil Pooling Agreement. Agreement No. 9873-4: Modification and extension of the U.S. Pacific Coast/Brazil Pooling Agreement. Agreement No. 10330-1: Modification of the Brazil/U.S. Pacific Coast Pooling Agreement.
4. Agreement No. 9847-6: Extension of the U.S. Atlantic/Brazil Pooling Agreement and Agreement No. 10027-10: Extension of the Brazil/U.S. Atlantic Pooling Agreement.
5. Agreement No. 10247-3: Modifications and Extension of the Australian Loading Expense Agreement.
6. Agreement No. 9925-2: Modification of the Pacific Australia Container Express Line Joint Service and Agreement No. 9767-1: Modification of the Associated Container Transportation (Australia), Ltd., Joint Service to authorize intermodal operations.
7. Agreement No. 6080-27: Modification of the United Staes Atlantic and Gulf/Santo Domingo Conference Agreement to provide for independent rate action.
8. Proposed Rule to Exempt Certain Agency Agreements from the Filing and Approval Requirements of section 15 of the Shipping Act, 1916.
9. Proposed Rule to Exempt Administrative, Housekeeping and Non-Substantive Agreements and Modifications.
10. Petition for Repeal of Interest Policy Statement.
11. Interest in Reparation Proceedings.
12. Awards of interest in overcharge cases involving mismeasurement.
13. Plan for Conducting a Study of the Tariff System.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2280-80 Filed 12-10-80; 3:12 pm]

BILLING CODE 6730-01-M

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, December 17, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 9, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-2277-80 Filed 12-9-80; 5:06 pm]

BILLING CODE 6210-01-M

5

NUCLEAR REGULATORY COMMISSION.

DATE: Monday, December 15, 1980.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

Discussion of Instructions to Board on Indian Point Proceeding (Approximately 1½ hours, public meeting).

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status of the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410

December 8, 1980.

Walter Magee,

Office of the Secretary.

[S-2279-80 Filed 12-10-80; 3:07 pm]

BILLING CODE 7590-01-M

6

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 15, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, December 16, 1980, at 10:00 a.m., Wednesday, December 17, 1980, at 9:15 a.m. and 2:45 p.m. and Friday, December 19, 1980, at 10:00 a.m. An open meeting will be held on Thursday, December 18, 1980, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 16, 1980, at 10:00 a.m., will be:

Amendment of formal order of investigation.
Litigation matters.
Institution of injunctive actions.
Consideration of *amicus* participation.
Freedom of Information Act appeals.
Formal order of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Opinion.

The subject matter of the closed meetings scheduled for Wednesday, December 17, 1980, at 9:15 a.m. and 2:45 p.m., will be:

Regulatory matters bearing enforcement implications.

The subject matter of the closed meeting scheduled for Friday, December 19, 1980, at 10:00 a.m., will be:

Institution of injunctive action.

The subject matter of the open meeting scheduled for Thursday, December 18, 1980, at 2:30 p.m., will be:

1. Consideration of whether to grant an application by Investors Research Corporation and Twentieth Century Investors, Inc., for an exemption from the provisions of Section 17(e)(1) of the Investment Company Act of 1940 to permit the adviser to receive payments for the leasing of computer programs to brokers to which a substantial portion of the portfolio brokerage of the adviser's investment company client is directed. For further information, please contact W. Randolph Thompson at (202) 272-3029.

2. Consideration of whether to issue a release proposing:

(A) revisions to Regulation S-K which would (1) categorize that Regulation by subject matter; (2) expand that Regulation by adding uniform disclosure requirements with respect to the distribution of securities; and (3) revise the registration statement forms to incorporate by reference such uniform disclosure requirements; and

(B) revisions to the Guides for Preparation and Filing of Registration Statements and Reports which would (1) withdraw the Guides, with the exception of the industry Guides; and (2) incorporate certain substantive requirements of the withdrawn Guides into Regulation S-K, Regulation C and the Rules of General Application under the Securities Exchange Act of 1934. For further information, please contact Elizabeth K. Norsworthy at (202) 272-2390.

3. Consideration of whether to issue a release soliciting comments on the impact of the Small Business Investment Incentive Act of 1980 on certain exemptions from the registration provisions of the Securities Act of 1933. For further information, please contact Paul Belvin at (202) 272-2644.

4. Consideration of whether to propose for comment amendments to the Regulation A disclosure requirements. For further information, please contact Paul Belvin at (202) 272-2644.

5. Consideration of a rulemaking petition filed by Public Citizen concerning the need to require consistent disclosure. The rules proposed by the petition generally would require corporations to disclose in their filings with the Commission any material information submitted to agencies or courts regarding the effects of proposed or implemented regulations, and to file any agency or court submissions regarding the cost of regulations with the Commission. For further information, please contact Stephen W. Hamilton at (202) 272-2390.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Art Delibert at (202) 272-2467.

December 9, 1980.

[S-2276-80 Filed 12-9-80; 4:59 pm]

BILLING CODE 8010-01-M

Federal Register

Friday
December 12, 1980

Part II

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 on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract 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

None.

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.

California:	
CA80-5110	Mar. 14, 1980.
CA80-5114	Apr. 18, 1980.
CA80-5135	Oct. 3, 1980.
CA80-5147	Nov. 28, 1980.
Connecticut:	
CT80-2073	Aug. 15, 1980.
District of Columbia:	
DC80-3040	May 16, 1980.
Maryland:	
DC80-3040	May 16, 1980.
Minnesota:	
MN78-2068	Aug. 4, 1978.
Ohio:	
OH80-2028	Aug. 1, 1980.
Pennsylvania:	
PA80-3010	Apr. 4, 1980.
PA80-3011	Feb. 22, 1980.
PA80-3012	Feb. 15, 1980.
Texas:	
TX80-4024	Apr. 4, 1980.
Virginia:	
DC80-3040	May 16, 1980.
VA80-3067	Oct. 31, 1980.
VA80-3066	Oct. 31, 1980.
VA80-3065	Oct. 31, 1980.
Wisconsin:	
WI80-2079	Sept. 5, 1980.

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:	
AL79-1066(AL80-1117)	Apr. 13, 1979.
Connecticut:	
CT77-3045(CT80-3078)	Apr. 15, 1977.
Idaho:	
ID79-5112(ID80-5146)	May 25, 1979.
Mississippi:	
MS80-1001; MS80-1002; MS80-1003; MS80-1004; MS80-1005; MS80-1006 and MS80-1028(MS80-1121).	Jan. 18, 1980.

Missouri:
MO79-4072(MO80-4095) ..... Aug. 3, 1979.
MO79-4076(MO80-4096) ..... Nov. 23, 1979.
Nebraska:
NE76-4178(NE80-4100) ..... Oct. 15, 1976.
Pennsylvania:
PA79-3007(PA80-3074) ..... Apr. 6, 1979.
PA79-3012(PA80-3073) ..... May 18, 1979.
Utah:
UT80-5128(UT80-5148) ..... Sept. 19, 1980.

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determinations:

LA77-4031—Ouachita Parish, Louisiana, dated February 18, 1977 in 42 FR 10237—Residential Construction

AZ80-5123—Maricopa County, Arizona, dated August 1, 1980 in 45 FR 51393—Residential Construction.

Signed at Washington, D.C. this 5th day of December 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION P. 1

DECISION NO. CA80-5110 - Mod. #7
(45 FR 16796 - March 14, 1980)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solono, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group 1	$12.19	1.30	1.75	1.40	.10
Group 1(a)	12.415	1.30	1.75	1.40	.10
Group 1(b)	12.69	1.30	1.75	1.40	.10
Group 1(c)	12.24	1.30	1.75	1.40	.10
Group 1(d)	12.44	1.30	1.75	1.40	.10
Group 1(e)	12.74	1.30	1.75	1.40	.10
Group 1(f)	12.775	1.30	1.75	1.40	.10
Group 1(g)	12.39	1.30	1.75	1.40	.10
Group 2	12.04	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Gunite Laborers:					
Group 1	12.65	1.30	1.75	1.40	.10
Group 2	12.06	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Wrecking Work:					
Group 1	12.19	1.30	1.75	1.40	.10
Group 2	12.04	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Housemoving:					
Group 1	12.19	1.30	1.75	1.40	.10
Omit:					
Laborers:					
Group 1(f)1	10.205	1.30	1.75	1.40	.10

MODIFICATION P. 2

DECISION #CA80-5114 - Mod. # 5
(45 FR 26610 - April 18, 1980)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group 1	$12.19	1.30	1.75	1.40	.10
Group 1(a)	12.415	1.30	1.75	1.40	.10
Group 1(b)	12.69	1.30	1.75	1.40	.10
Group 1(c)	12.24	1.30	1.75	1.40	.10
Group 1(d)	12.44	1.30	1.75	1.40	.10
Group 1(e)	12.74	1.30	1.75	1.40	.10
Group 1(f)	12.775	1.30	1.75	1.40	.10
Group 1(g)	12.39	1.30	1.75	1.40	.10
Group 2	12.04	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Gunite Laborers:					
Group 1	12.65	1.30	1.75	1.40	.10
Group 2	12.06	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Wrecking Work:					
Group 1	12.19	1.30	1.75	1.40	.10
Group 2	12.04	1.30	1.75	1.40	.10
Group 3	11.94	1.30	1.75	1.40	.10
Housemoving:					
Group 1	12.19	1.30	1.75	1.40	.10
Omit:					
Laborers:					
Group 1(f)1	10.205	1.30	1.75	1.40	.10

MODIFICATION P. 3

DECISION NO. CA80-5114 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1:					
Area 1	$12.08	1.65*	3.00	1.55	.34
Area 2	14.08	1.65*	3.00	1.55	.34
Group 2:					
Area 1	12.49	1.65*	3.00	1.55	.34
Area 2	14.49	1.65*	3.00	1.55	.34
Group 3:					
Area 1	12.74	1.65*	3.00	1.55	.34
Area 2	14.74	1.65*	3.00	1.55	.34
Group 4:					
Area 1	13.39	1.65*	3.00	1.55	.34
Area 2	15.39	1.65*	3.00	1.55	.34
Group 5:					
Area 1	13.64	1.65*	3.00	1.55	.34
Area 2	15.64	1.65*	3.00	1.55	.34
Group 6:					
Area 1	13.82	1.65*	3.00	1.55	.34
Area 2	15.82	1.65*	3.00	1.55	.34
Group 7:					
Area 1	14.00	1.65*	3.00	1.55	.34
Area 2	16.00	1.65*	3.00	1.55	.34
Group 8:					
Area 1	14.52	1.65*	3.00	1.55	.34
Area 2	16.52	1.65*	3.00	1.55	.34
Group 9:					
Area 1	$14.78	1.65*	3.00	1.55	.34
Area 2	16.78	1.65*	3.00	1.55	.34
Group 10:					
Area 1	15.04	1.65*	3.00	1.55	.34
Area 2	17.04	1.65*	3.00	1.55	.34
Group 10A:					
Area 1	15.18	1.65*	3.00	1.55	.34
Area 2	17.18	1.65*	3.00	1.55	.34
Group 11:					
Area 1	15.39	1.65*	3.00	1.55	.34
Area 2	17.39	1.65*	3.00	1.55	.34
Group 11A:					
Area 1	16.75	1.65*	3.00	1.55	.34
Area 2	18.75	1.65*	3.00	1.55	.34
Group 11B:					
Area 1	17.09	1.65*	3.00	1.55	.34
Area 2	19.09	1.65*	3.00	1.55	.34
Group 11C:					
Area 1	17.46	1.65*	3.00	1.55	.34
Area 2	19.46	1.65*	3.00	1.55	.34

*Includes $.44 per hour to Pensioned Health and Welfare Fund.

MODIFICATION P. 4

DECISION NO. CA80-5135 - Mod. #1
(45 FR 65867 - October 3, 1980)
Imperial, Inyo, Kern, Los-Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Change:						
Laborers:						
Group 1	$10.63	$12.63	1.25	2.90	1.20	.12
Group 2	10.78	12.78	1.25	2.90	1.20	.12
Group 3	10.98	12.98	1.25	2.90	1.20	.12
Group 4	11.28	13.28	1.25	2.90	1.20	.12
Group 5	11.48	13.48	1.25	2.90	1.20	.12
GUNNITE						
Group 1	12.62	14.62	1.25	2.90	1.20	
Group 2	11.97	13.97	1.25	2.90	1.20	
Group 3	10.91	12.91	1.25	2.90	1.20	
TUNNEL						
Group 1	12.54	14.54	1.25	2.90	1.20	
Group 2	12.66	14.66	1.25	2.90	1.20	
Group 3	12.82	14.82	1.25	2.90	1.20	
Group 4	13.10	15.10	1.25	2.90	1.20	

MODIFICATION P. 5

DECISION NO. CA80-5135 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders	$11.23	1.25	2.90	1.20	.12
Plasterers Tenders:					
Area 1	13.32	1.25	2.90	1.10	
Area 2	11.25	1.25	2.90	1.20	
Area 6	15.73	1.25	2.60	1.20	
Area 7	14.25	1.25	2.90	1.20	

MODIFICATION P. 6

DECISION NO. CA80-5147 - Mod. #1
(45 FR 79275 - November 28, 1980)
Imperial, Kern, Los-Angeles, Orange, Riverside, San Bernardino, San Luis-Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders	$11.23	1.25	2.90	1.20	.12
Gunite Laborers:					
Nozzlemen and Rodmen	12.62	1.25	2.90	1.20	
Gunmen	11.97	1.25	2.90	1.20	
Reboundmen	10.91	1.25	2.90	1.20	
Gunite Laborers: Vandenberg AFB, Point Arguello, Camp Roberts, Naval Ordnance Test Station, Edwards AFB.					
Nozzlemen and Rodmen	14.62	1.25	2.90	1.20	
Gunmen	13.97	1.25	2.90	1.20	
Reboundmen	12.91	1.25	2.90	1.20	
Plasterers Tenders:					
Area 1	13.32	1.25	2.90	1.10	
Area 2	14.25	1.25	2.90	1.20	
Area 3	11.25	1.25	2.90	1.20	
Area 4	13.32	1.25	2.90	1.20	

MODIFICATION P. 7

DECISION NO. CT80-2073 - Mod. #3 (45 FR 54594 Aug. 15, 1980) Fairfield, Litchfield, and Windham Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: In DECISION NO. CT80-2073 - Mod. #1 replace New Hampshire with Connecticut in each place that New Hampshire appears.					

MODIFICATION P. 8

DECISION No. DC80-3040-Mod. #5 (45 FR 32528 - May 16, 1980) District of Columbia, Maryland - Montgomery & Prince Georges Counties; D. C. Training School; Virginia - Independent City of Alexandria, Arlington and Fairfax Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: All Counties BUILDING CONSTRUCTION: Excluding Alexandria, VA.					
Electrician	$13.60	.75	3%+.80		.13
DECISION NO. MN78-2068 MOD#1 (43FR34668 - August 4,1978) Counties: Beltrami, Clearwater, Kittson, Lake-of-the Woods, Mahnomen, Polk, Marshall, Norman, Red Lake, Pennington & Roseau, Minnesota					
OMIT: Norman County					

MODIFICATION P. 9

DECISION NO. OH80-2028 - MOD. #5
(45 FR 51416 - August 1, 1980)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, and Summit Cos., Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Plumbers (Residential):					
Portage, and Summit (South of Route #303) Cos.	$9.20	.60	.35		.03

MODIFICATION P. 10

DECISION NO. PA80-3010
MOD. NO. 4
(45 FR 23270 - April 4, 1980)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, Venango Counties, Pa.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians					
Zone 3	$14.25	.75	3%+1.00		1/2%
Zone 4	14.20	3%	3%+1.00		1/2%
Lathers					
Zone 3	12.22	.90	1.30		.01
Line Construction					
Zone I					
Class I	14.70	.60	3%		3/8%
Class II	8.76	.60	3%		3/8%
Class III	10.25	.60	3%		3/8%
Painters					
Zone I					
Commercial					
Brush & Roller	11.24	1.10	1.00		.02
Spray	11.74	1.10	1.00		.02
Industrial					
Brush	12.09	1.10	1.00		.02
Spray	12.59	1.10	1.00		.02
Plumbers & Steamfitters					
Zone I	14.22	.80	1.50		.08
Zone 2	14.12	.75	1.05		.06
Zone 3					
Contracts Under $10,000	9.15	.95	1.30		.15
Contracts Over $10,000	14.00	.95	1.30		.15
Roofers					
Zone I	13.39	.60	.30		.02
Sheet metal workers.					
Zone 3	13.75	1.12	1.66		.23

MODIFICATION P. 11

DECISION NO. PA80-3011
MOD. NO. 4
(45 FR 12118 - February 22, 1980)
Greene, Somerset & Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Zone II					
Linemen	$14.70	.60	3%		3/8%
Groundman	8.76	.60	3%		3/8%
Winch truck operator	10.25	.60	3%		3/8%
Painters:					
Zone 2					
Commercial					
Brush & Roller	11.24	1.10	1.00		.02
Spray	11.74	1.10	1.00		.02
Industrial					
Brush	12.09	1.10	1.00		.02
Spray	12.59	1.10	1.00		.02
Sheet metal workers (Zone 1)	13.75	1.12	1.66		.23
Soft floor layers					
Zone I	12.30	.76	.81	.51	.05

MODIFICATION P. 12

DECISION NO. PA80-3012 MOD. 4
(45 FR 10595 - February 15, 1980)
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Zone I					
Lineman	$14.70	.60	3%		3/8%
Winch truck operator	10.25	.60	3%		3/8%
Groundman	8.76	.60	3%		3/8%
Painters:					
Zone 6					
Commercial					
Brush	11.24	1.10	1.00		.02
Spray	11.74	1.10	1.00		.02
Industrial					
Brush	12.09	1.10	1.00		.02
Spray	12.59	1.10	1.00		.02
Plumbers					
Zone 2	14.22	.80	1.50		.08
Steamfitters					
Zone 4	14.06	.80	1.50		.08
Soft floor layers					
Zone I	12.30	.76	.81	.51	.05
Sheet metal workers	13.75	1.12	1.66		.23

MODIFICATION P. 13

DECISION NO. TX80-4024-MOD. #3 (45 FR 23280 - April 4, 1980) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Plumbers & steamfitters	$10.68	.50	.75		.05

MODIFICATION P. 14

Decision NO. VA80-3067-Mod. #1 (45 FR 72460-October 31,1980 The Cities of Chesapeake, Portsmouth, and Virginia Beach	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS	$10.33	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPER	7.23	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPER PROBATIONARY	5.165				
ADD:					
Sound and Signal Installer	6.00				
Decision NO. VA80-3066-Mod. #1 (45 FR 72457-October 31,1980 York County, & the Cities of Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe)					
CHANGE:					
ELEVATOR CONSTRUCTORS	10.33	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPER	7.23	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPER PROBATIONARY	5.165				
ADD:					
Sound and Signal Installer	6.00				
Decision NO. VA80-3065-Mod. #1 (45 FR 72455-October 31,1980 Henrico County & the City of Richmond					
ADD:					
Sound and Signal Installer	6.00				

MODIFICATION P. 15

DECISION NO. WI80-2079 - MOD. #4
(45 FR 59112 - September 5, 1980)
Kenosha County, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brush & Roller	$10.775	.75	.85		
Structural Steel	10.925	.75	.85		
Spray	11.62	.75	.85		
Swing Stage	10.975	.75	.85		

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: MADISON
DECISION NUMBER: AL80-1117 DATE: DATE OF PUBLICATION
Supersedes Decision Number AL79-1066, dated April 13, 1979, in 44 FR 22307.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.55	.80		.05
BRICKLAYERS	11.50				
CARPENTERS	8.60	.45	.35		.03
CEMENT MASONS	10.25				
ELECTRICIANS	12.15	.55	3% + .65		
IRONWORKERS	10.60	.75	.75		.08
LABORERS - UNSKILLED	5.55	.35	.50		
MILLWRIGHTS	8.50				
PAINTERS	8.25	.40	.25		.05
PLUMBERS & PIPEFITTERS	9.25				
ROOFERS	7.50				
SHEET METAL WORKERS	8.50				
TRUCK DRIVERS	5.00				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
CRANE	11.33	.50	.55		.05
FRONT END LOADER	11.33	.50	.55		.05
OILER (35 ton crane & over)	9.89	.50	.55		.05

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: Connecticut COUNTY: New Haven
DECISION NO.: CT80-3078 DATE: Date of Publication
Supersedes Decision No. CT77-3045, dated April 15, 1977 in 42 FR 20055.
DESCRIPTION OF WORK: Residential Construction 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	12.00	.90	.65		.05
Cement Masons	11.05	.75	.75		
Electricians	13.10	1.07	3%+.65		½%
Elevator Mechanics	12.745	1.195	.95	a+b	.035
Laborers, Unskilled	5.33				
Painters	7.00				
Plumbers	7.94				
Roofers	12.65	1.35	.50		
Sheet Metal Workers	9.18				
Tapers	8.84				
Power Equipment Operators, Backhoe	9.50	.45	.80		.10

SUPERSEDEAS DECISION

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID80-5146 DATE: Date of Publication
Supersedes Decision No. ID79-5112 dated May 25, 1979, in 44 FR 30570
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Area 1	$14.64	.72	$1.30		.04
Area 2	14.36	.77	1.52		
BOILERMAKERS:*					
Area 1	13.51	1.275	1.25	1.00	.04
Area 2	13.31	1.275	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	15.00		1.00		
Area 2	14.33	.80	1.00		.05
Area 3	13.20	.85	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	12.90	.90	.60		
Area 6	12.10	.90	.75		
CARPENTERS:*					
Area 1:					
Carpenters	14.04	.96	1.20		.10
Floor Finisher; Floor Layer; Floor Sander Operator; Sawfiler; Shinglers; Stationary Power Saw Operators and Operators of other stationary power wood-working tools; Pile-drivermen	14.19	.96	1.20		.10
Carpenters working burned, charred, creosoted or similarly treated materials; Boom Man	14.29	.96	1.20		.10
Millwrights and Machine Erectors	14.54	.96	1.20		.10
Piledriver (creosoted material)	14.44	.96	1.20		.10

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north half); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties and Idaho County (south half)

BOILERMAKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining counties

BRICKLAYERS; Stonemasons:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

CARPENTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the northern boundary of Township #29. North); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 2:					
Zone 1:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	$11.28	$1.05	$1.05	.90	.15
Saw Filer; Stationary Machine Operator, Piledrivermen; Bridgeman and Wharf Builders; Automatic Pile Threader	11.45	1.05	1.05	.90	.15
Millwrights and Machine Erector; Piledriverman's Boom Man	11.57	1.05	1.05	.90	.15
Zone 2:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	12.78	1.05	1.05	.90	.15
Saw Filer; Stationary Machine Operator; Piledriverman; Bridgeman and Wharf Builders; Automatic Pile Threader	12.95	1.05	1.05	.90	.15
Millwrights and Machine Erector; Piledriverman's Boom Man	13.07	1.05	1.05	.90	.15
Zone 3:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator	13.03	1.05	1.05	.90	.15
Saw Filer; Stationary Machine Operator; Piledriverman; Bridgeman and Wharf Builders; Automatic Pile Threader	13.20	1.05	1.05	.90	.15
Millwrights and Machine Erector; Piledriverman's Boom Man	13.32	1.05	1.05	.90	.15

*See AREA and ZONE Descriptions - following Page

AREA and ZONE DESCRIPTIONS

CARPENTERS: (Cont'd)
Area 2: Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above.

CEMENT MASONS (Area 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$13.23	$14.28	$14.68	$15.33	$16.08
2	13.73	14.78	15.18	15.83	16.58
3	14.23	15.28	15.68	16.33	17.08

FRINGE BENEFITS:	
Health and Welfare	$0.95
Pensions	1.50
Apprenticeship Training	0.15

Group 1: Roddihg, Tamping, Floating, Troweling, Patching, Stoning, Rubbing, Sack Rubbing; All exposed aggregate finishing; Setting of Screeds, Screed Forms, curb and gutter and sidewalk forms; Preparation of all concrete for caulking of the joints and the caulking of expansion joints; Preparation of concrete for the application of hardeners, sealers and curing compounds and their application; Grouting and Drying packing of machine base; Removal of snap ties and she-bolts prior to patching of concrete

Group 2: Power Troweling Machine Operator; Troweling of magnesite, torganal or material with epoxy bases or oxichloride base; All power grinders, bushing hammer, chipping gun; Gunite Nozzleman; All sandblasting for architectural finishes and exposing of aggregate for finish; Concrete sawing and cutting for expansion joints and scoring for decorative pattern; Operating of Clary-type Floats, Longitudinal Floats, Rodding Machines and Belting Machines; Scarifiers

Group 3: Grinding, bushing or chipping of toxic materials or high-density concrete; Operating of power tools on a scaffold

ZONE DESCRIPTIONS

Zone 1: Area within a 15 mile radius from the center of the Cities listed below
Zone 2: Area within 15-30 mile radius from the center of the Cities listed below
Zone 3: Area within 30-45 mile radius from the center of the Cities listed below
Zone 4: Area within 45-90 mile radius from the center of the Cities listed below
Zone 5: Area over 90 mile radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

CEMENT MASONS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group	Zone 1	Zone 2	Zone 3
1	$10.71	$12.21	$12.46
2	10.91	12.41	12.66

FRINGE BENEFITS:

Health and Welfare	$ 1.04
Pensions	0.85
Vacation	1.25
Apprenticeship Training	0.20

Group 1: Cement Mason (including but not limited to hand chipping and patching; All types grouting and painting of all concrete construction; Screed setting including screed pins; Dry packing of all concrete including Embeco; Plugging and filling all voids, etc., concrete construction; Waterproofing of concrete with thoroseal or similar materials)

Group 2: Cement Mason (magnesite, terrazzo and mastic composition, two component epoxies; Clary and similar type screed operator; Jackson Vibrator and similar type Screed Operator; Sandblasting of concrete for architectural finishes only; Power Chipping and Bush-hammer; All color concrete work; Power Trowel Operator; Power Grinder Operator; Gunite and composition floor layer)

ZONE DESCRIPTIONS

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:*					
Area 1:					
Electricians	$16.85	.95	3%+.40		.02
Cable Splicers	17.25	.95	3%+.40		.02
Area 2:					
Electricians	13.90	.75	3%+1.00		1%
Cable Splicers	15.29	.75	3%+1.00		1%
Area 3:					
Electricians; Technicians	13.95	.75	3%+1.00		1%
Cable Splicers	15.35	.75	3%+1.00		1%
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	16.835	1.195	.95	a	.035
Elevator Constructors' Helpers	11.78	1.195	.95	a	.035
Area 2:					
Elevator Constructors	12.91	1.195	.95	a	.035
Elevator Constructors' Helpers	9.04	1.195	.95	a	.035
GLAZIERS:*					
Area 1	12.00	.53	.80		
Area 2	12.71	.42	.50	4%	.02
Area 3	11.44	.49	.30		.12
Area 4	10.05	.42	.10	b	
IRONWORKERS:*					
Ornamental; Reinforcing; Structural:					
Area 1	15.66	.93	1.90		.10
Area 2	13.35	.93	1.70		.10
Area 3	13.19	.90	1.45		.02
MARBLE SETTERS:*					
Area 1	15.00		1.00		
Area 2	14.33	.80	1.00		.05
Area 3	13.20	.85	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	12.90	.90	.60		
Area 6	10.40	.90	.75		

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 3: Remaining Counties

ELEVATOR CONSTRUCTORS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties, except Adams, Lemhi, Valley, and Washington Counties

GLAZIERS:
Area 1: Benewah and Clearwater Counties; Idaho County (north of the 46th Parallel); Latah, Lewis, and Nez Perce Counties
Area 2: Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (south of the 46th Parallel, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties
Area 4: Remaining Counties and Gooding County (the east part, from a line running north and south through the eastern limits of the City of Bliss)

IRONWORKERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Those portions of Adams, Idaho, Valley, and Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line
Area 3: Remaining Counties and those portions of Adams, Idaho, Valley and Washington Counties located south of the Weiser-Gibbonsville Line

MARBLE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of the City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush	$12.99	.53	$ 1.10		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	13.49	.53	1.10		.02
Swing Stage, over 30 ft. high	13.69	.53	1.10		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on Legs	13.79	.53	1.10		.02
Tapers	12.84	.53	1.10		.02
Area 2:					
Painters and Tapers	11.37	.63	.50		
Area 3:					
Painters and Tapers	12.37	.63	.50		
Area 4:					
Brush; Roller, perfataper	9.96	.62	.50		.005
Structural Steel; Swing Stage; Spray	10.41	.62	.50		.005
PLASTERERS:*					
Area 1	12.61	.95	1.50		.15
Area 2	10.71	1.04	.85	1.25	.20
PLASTERERS' TENDERS:*					
Area 1	10.75	.82	1.00		.05
PLUMBERS:*					
Area 1	18.98	.90	1.45		.12
Area 2	13.62	1.09	2.10		.10
ROOFERS:*					
Area 1	13.06	.85	1.45		.10
Area 2:					
Roofers; Kettlemen	12.45	.85	.30		
Roofers working with coal tar and pitch products	14.45	.85	.30		
Area 3	11.20	.85	.50		

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

PAINTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (the north part, from a line running east and west through the north limits of Elk City); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, and Canyon Counties; Elmore County (except Mt. Home AFB); Gem County; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties
Area 3: Elmore County (Mt. Home AFB)
Area 4: Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, and Fremont Counties; Gooding County (the east part, from a line running north and south through the eastern limits of the City of Bliss); Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, and Twin Falls Counties

PLASTERERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties

PLASTERERS' TENDERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

PLUMBERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties (excluding Idaho and Lewis Counties)

ROOFERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, and Gem Counties; Idaho County (south of the 46th Parallel); Lemhi, Owyhee, Payette, Valley, and Washington Counties
Area 3: Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, and Teton Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:*					
Area 1	$16.74	3%+.73	$1.50		.20
Area 2	13.71	.73	.96		.21
Area 3	12.63	.95	.69		.10
SOFT FLOOR LAYERS:*					
Area 1	10.41	.47	1.00		
Area 2	12.05	.53	.60		
Area 3	8.26	.49	.10		.10
SPRINKLER FITTERS	14.79	.85	1.20		.08
TERRAZZO WORKERS and TILE SETTERS:					
Area 1	15.00		1.00		
Area 2	12.90	.80	2.00		
Area 3	13.20	.85	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	12.90	.90	.60		
Area 6	10.40	.90	.75		
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.					
*See AREA Descriptions - following Page					

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service, 6% of basic hourly rate for 6 months' to 5 years' service, as Vacation Pay Credit. Seven Paid Holidays: A thru G
b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay, also 7 Paid Holidays: A, B, C, E, F, G, plus Veterans' Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

AREA DESCRIPTIONS

SHEET METAL WORKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Idaho, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley, and Washington Counties
Area 3: Remaining Counties

SOFT FLOOR LAYERS:
Area 1: Clearwater County; Idaho County (north half); Latah, Lewis, and Nez Perce Counties
Area 2: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of the City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS: (AREA 1): Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$16.15	.45	3%+1.10	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	14.59	.45	3%+1.10	.10	1/2%
Tree Trimmer	13.17	.45	3%+1.10	.10	1/2%
Line Equipment Man	12.57	.45	3%+.70	.10	1/2%
Head Groundman (Chipper); Head Groundman; Powder-man; Jackhammer Man	10.99	.45	3%+.70	.10	1/2%
Groundman	10.32	.45	3%+.70	.10	1/2%
(AREA 2): Remaining Counties:					
Lineman	13.00	.45	3%+.50		1%
Line Equipment Mechanic:					
Base Shop	11.49	.45	3%+.50		1%
Right-of-way	12.29	.45	3%+.50		1%
Line Equipment Serviceman	11.49	.45	3%+.50		1%
Line Equipment Operator	11.68	.45	3%+.50		1%
Groundman	9.57	.45	3%+.50		1%
Cable Splicer	14.34	.45	3%+.50		1%

ZONE PAY for AREA 1 ONLY:
Each classification will receive the base rate plus ZONE A-$1.25, Zone B-$2.00, Zone C-$2.75, Zone D -$4.00

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.
ZONE A - 3 to 20 miles radius from geographical center of towns listed below
ZONE B - 20 to 35 miles radius from geographical center of towns listed below
ZONE C - 35 to 50 miles radius from geographical center of towns listed below
ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane	Coeur d'Alene	Kellogg
Orofino	Sand Point	Lewiston

LABORERS: (AREA 1): Benewah, Bonner, Boundary and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building Construction:					
Group 1	$11.80	.97	1.10		.10
Group 2	12.05	.97	1.10		.10
Group 3	12.30	.97	1.10		.10
Group 4	12.55	.97	1.10		.10

Heavy and Highway Construction

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$11.80	$12.85	$13.25	$13.90	$14.65
2	12.05	13.10	13.50	14.15	14.90
3	12.30	13.35	13.75	14.40	15.15
4	12.55	13.60	14.00	14.65	15.40

FRINGE BENEFITS:

Health and Welfare	$ 0.97
Pensions	1.10
Apprenticeship Training	0.10

ZONE DESCRIPTIONS

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 mile radius from the center of the Cities listed below

Zone 3: Area within 30-45 mile radius from the center of the Cities listed below

Zone 4: Area within 45-90 mile radius from the center of the Cities listed below

Zone 5: Area over 90 mile radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

LABORERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Building, Heavy, and Highway Construction

Group 1: Brush Hog Feeder; Carpenter Tender; Cement Handler; Concrete Crewman (includes stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine - 6 inches and smaller); Concrete Signalman; Crusher Feeder; Demolition (includes clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (includes guard rails, guide and reference posts, sign posts and right-of-way markers); Form Cleaning Machine Feeder, Stacker; General Laborer; Grout Machine Header Tender; Bullgang, Concrete Crewman, Dumpman and Pumpcrete Crewman, including distributing pipe, assembly and dismantle, and Nipper; Nipper; Riprap Man; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural mover (includes separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, nonmechanical; Driller Tender (when required to move and position machine); Form Setter, paving; Grade Checker using level; Jackhammer Operator; Brakeman, Finisher, Vibrator and Form Setter; Nozzleman (includes squeeze and flow-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker, under 90 lbs.; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad equipment, power-driven, except dual mobile power Spiker or Puller; Railroad power Spiker or Puller, dual mobile; Rodder and Spreader; Tamper (includes operation of Barco, Essex and similar tampers); Trencher, Shawnee; Tugger Operator; Wagon Drills; Water Pipe Liner; Wheelbarrow, power-driven

Group 3: Air Track Drill; Brush Machine (includes horizontal construction joint clean-up brush machine, power-propelled); Caisson Worker, free air; Chain Saw Operator and Faller; Concrete Stack (includes laborers when working on free-standing concrete stacks for smoke or fume control above 40 ft. high); Gunite (includes operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (includes Grade Checkers and Elevation control); Miner, Nozzleman for concrete, and Laser Beam Operator on tunnels; Monitor Operator, air track or similar mounting; Mortar Mixer; Nozzleman (includes Jet Blasting Nozzleman, over 1200 lbs., Jet Blasting Machine, power-propelled, Sandblast Nozzle); Pavement Breaker, 90 lbs. and over; Pipelayer (includes working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or Meter Installer, Tamper); Pipewrapper; Vibrators, all

Group 4: Drills with dual masts; Raise and Shaft Miner, Laser Beam Operator on raises and shafts; Powderman (receives $0.25 additional per hour); Welder, electric, manual or automatic

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$ 9.36	$10.86	$11.11
2	9.46	10.96	11.21
3	9.56	11.06	11.31
4	9.66	11.16	11.41
5	9.71	11.21	11.46
6	9.96	11.46	11.71
7	10.21	11.71	11.96
Underground Work:			
8	9.51	11.01	11.26
9	9.66	11.16	11.41
10	9.96	11.46	11.71

FRINGE BENEFITS:

Health and Welfare	$ 0.90
Pensions	1.49
Vacation	0.60
Apprenticeship Training	0.15

ZONE DESCRIPTIONS

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho), then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer, manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Tender; Cribbing and Shoring (in open ditches); Machinery and parts Cleaner; Leverman, manual or mechanical; Demolition, salvage; Landscaper; Tool Room Man

Group 2: Chuck Tender; Driller Tender; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Tender; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter, airport paving; Gunman (Gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway, curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Goup 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with Manufacturers' rating 3" or over

Group 7: Powderman

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Mucker; Bullgang

Group 9: Form setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spilling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$ 12.05	$ 13.10	$ 13.50	$ 14.15	$14.90
2	12.35	13.40	13.80	14.45	15.20
3	12.90	13.95	14.35	15.00	15.75
4	13.05	14.10	14.50	15.15	15.90
5	13.20	14.25	14.65	15.30	16.05
6	13.45	14.50	14.90	15.55	16.30
7	13.70	14.75	15.15	15.80	16.55
8	14.70	15.75	16.15	16.80	17.55

FRINGE BENEFITS:

Health and Welfare	$ 1.20
Pension	1.55
Apprenticeship Training	0.08

ZONE DESCRIPTIONS

Zone 1: Area within a 15 mile radius from the center of the Cities listed below
Zone 2: Area within 15-30 mile radius from the center of the Cities listed below
Zone 3: Area within 30-45 mile radius from the center of the Cities listed below
Zone 4: Area within 45-90 mile radius from the center of the Cities listed below
Zone 5: Area over 90 mile radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors (under 2,000 CFM, gas, diesel or electric power); Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender, Mechanic or Welder, H.D.; Hydro-seeder, Mulcher, Nozzleman; Oiler; Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar or compacting vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 CFM or over, 2 or more, gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable, concrete); Pavement Breaker (Hydra-hammer and similar); Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad power Tamper Operator (self-propelled); Railroad Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job only); Tractor (farm type R/T with attachments, except Backhoe); Tugger Operator

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Batch Plant and Wet Mix Operator, single unit (concrete); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Bending Machine; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Deck Engineer; Elevating Belt-type Loader (Euclud, Barber Greene or similar); Elevating Grader type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Locomotive Engineer; Mixermobile; Mucking Machine; Post Hole Auger or Punch; Pump (Grout or Jet); Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (to D-6 or equivalent and Traxcavator); Traverse Finishing Machine; Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pumps (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Drills (Churn, Core, Calyx or Diamond); Equipment Serviceman, greaser and oiler; Hoist (2 or more drums or Tower Hoist); Loaders (Overhead and Front End, under 4 yds. R/T); Pave or Curb Extruders (asphalt or concrete); Refrigeration Plant Engineers (under 1,000 tons); Rubber-tired Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 ft. depty capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill, under 8 in. bit)

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 5: Backhoe (under 1 yd.); Cranes (25 tons and under); Derricks and Stifflegs (under 65 tons); Drilling equipment (8 inch bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Railroad Track Liner Operator (self-propelled); Refrigeration Plant Engineer (1,000 tons and over); Signalman (Whirleys, Highline, Hammerheads or similar)

Group 6: Asphalt Plant Operator; Automatic Sub-grader (Ditches and Trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (1 yd. to 3 yds.); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Blade (finish and bluetop)(Automatic, CMI, ABC and similar when used as automatic); Boat Operator; Boom Cats (side); Cableway Controller (dispatcher); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (over 25 tons, including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yds.); Drill Doctor; H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yds. including 8 yds.); Multiple Dozer units with single blade; Quad-track or similar equipment; Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Rubber-tired Scrapers, multi-engine power with one scraper (Euclid, TS 24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yds. and over); Rubber-tired Scraper, multiple-engine power with one scraper (Euclid, TS 24 and similar), Push Pull or Help Mate in use; Rubber-tired Scraper, multiple engines with two scrapers; Shovels (under 3 yds.); Tractors (D-6 and equivalent and over); Trenching Machines (7 ft. depth and over)

Group 7: Backhoe (3 yds. and over); Cableway Operators; Clamshell Operator (3 yds. and over); Cranes (over 45 tons, to 85 tons); Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (Overhead and Front-end, over 8 yds. to 10 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Whirleys and Hammerheads, all

Group 8: Cranes (85 tons and over, and all climbing, rail and tower); Loaders (Overhead and Front-end, 10 yds. and over); Helicopter Pilot

POWER EQUIPMENT OPERATORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$11.26	$12.76	$13.01
2	11.42	12.92	13.17
3	11.79	13.29	13.54
4	12.10	13.60	13.85
5	12.27	13.77	14.02
6	12.45	13.95	14.20
7	12.81	14.31	14.56
8	13.04	14.54	14.79
9	13.27	14.77	15.02
10	13.51	15.01	15.26

FRINGE BENEFITS:	
Health and Welfare	$1.18
Pensions	1.22
Apprenticeship Training	0.10

ZONE DESCRIPTIONS

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above

POWER EQUIPMENT OPERTORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Brakemen; Crusher Plant Feeder (mechanical); Deckhand; Drill Tenders; Grade Checkers; Heater Tender; Land Plane; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw, multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader machine Operator; Fireman - all; Heavy Duty Mechanic Tender or Welder Tender; Hoist - single drum; Hydraulic Monitor Operator, Skid-mounted; Oiler (single piece of equipment); Pugmixer, Box or Screed Operator; Spray Curing Machine; Tractor, rubber-tired farm-type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master, Joy) (tractor mounted); Drills: Churn, Core, Calyx or Diamond; Front End and Overhead Loaders and similar Machines (up to and including 4 yds.) (rubber-tired); Grout Pump; Hydra-hammer; Locomotive Engineer; Longitudinal Float Machine; Mixermobile; Spreader Machine; Tractor, rubber-tired, using Backhoe; Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar; Asphalt Spreaders

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator, mechanic (diesel, electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines, under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (finishing high-type pavement); Service Oiler; Skidder, rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only)

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 6: Asphalt Pavers, self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes, up to and inclufing 50 tons; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches) (Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar Machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tractor, Crawler type, including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls, Euclid and similar, to and including 40 yards

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes, over 50 tons; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader, CMI or equivalent; Front End and Overhead Loaders and similar Machines (over 7 yds.); Power Shovels and Draglines (over 3½ yds.); Quad type Tractors with all attachments; Tournapulls, Euclid and similar, over 40 yds. to and including 50 yds.; Multiple Scraper Units; Tower Crane Operator

Group 8: Tournapulls, Euclid and similar, over 50 yards to and including 75 yards

Group 9: Tournapulls, Euclid and similar, over 75 yards to and including 100 yards

Group 10: Tournapulls, Euclid and similar, over 100 yards

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$13.14	$14.19	$14.59	$15.24	$15.99
2	13.18	14.23	14.63	15.29	16.03
3	13.24	14.29	14.69	15.34	16.09
4	13.33	14.38	14.78	15.43	16.18
5	13.54	14.59	14.99	15.64	16.39
6	13.58	14.63	15.03	15.68	16.43
7	13.64	14.69	15.09	15.74	16.49
8	13.68	14.73	15.13	15.78	16.53
9	13.79	14.84	15.24	15.89	16.64
10	13.83	14.88	15.28	15.93	16.68
11	14.14	15.19	15.59	16.24	16.99
12	14.28	15.33	15.73	16.38	17.13
13	14.44	15.49	15.89	16.54	17.29
14	14.58	15.63	16.03	16.68	17.43

FRINGE BENEFITS:

Health and Welfare	$ 1.24
Pension	1.33
Apprenticeship Training	0.09

ZONE DESCRIPTIONS

Zone 1: Area within a 15 mile radius from the center of the Cities listed below
Zone 2: Area within 15-30 mile radius from the center of the Cities listed below
Zone 3: Area within 30-45 mile radius from the center of the Cities listed below
Zone 4: Area within 45-90 mile radius from the center of the Cities listed below
Zone 5: Area over 90 mile radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Fish Truck; Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Swamper; Leveeperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber-tired pulling Trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver, Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, Bootperson, Leverperson Tender); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Burner, Cutter and Welder; Oil Distributor Driver (road, Bootperson, Leverperson); Service Greaser; Tireperson No. 2; Trucks, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame; Water Tank Truck (6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Semi-truck and Trailer, 50 tons and under Lowboy; Transit Mixers and Trucks hauling concrete (6 yds. to and including 10 yds.); Trucks, side, end and bottom dump (over 12 yds. to and including 20 yds.)

TRUCK DRIVERS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 8: Low Boy (over 50 tons); Tractor with steer trailer; Truck-mounted Crane (with load-bearing surface, either mounted or pulled); Water Tank Truck (8,001 to 10,000 gallons)

Group 9: Flaherty Spreader Box Driver; Flowboys; Fork Lift, 16,000 lbs. and over; Semi-end Dumps; Transit Mixers and Trucks hauling concrete (over 10 yds. to and including 15 yds.); Trucks, side, end and bottom dump (over 20 yds. to and including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D. W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, whichever is greater; Transit Mixers and Trucks hauling concrete (over 15 yds. to and including 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to and including 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to and including 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to and including 100 yds.)

Group 14: Trucks, side, end and bottom dump (over 100 yds.); Helicopter Pilot hauling employees or material

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$10.41	$11.91	$12.16
2	10.47	11.97	12.22
3	10.53	12.03	12.28
4	10.59	12.09	12.34
5	10.64	12.14	12.39
6	10.90	12.40	12.65
7	10.96	12.46	12.71
8	11.02	12.52	12.77
9	11.13	12.63	12.88
10	11.19	12.69	12.94
11	11.25	12.75	13.00
12	11.31	12.81	13.06
13:			
Class A	10.79	12.29	12.54
Class B	11.00	12.50	12.75
Class C	11.13	12.63	12.88
Class D	11.31	12.81	13.06
Class E	11.42	12.92	13.17
Class F	11.54	13.04	13.29
Class G	11.82	13.32	13.57
Class H	12.05	13.55	13.80
Class I	12.28	13.78	14.03
14	11.70	13.20	13.45

FRINGE BENEFITS:	
Health and Welfare	$ 1.05
Pension	1.26
Vacation	0.75
Apprenticeship Training	0.20

ZONE DESCRIPTIONS

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (aporoximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed, 2 axle and Pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed, 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle truck or bus)

Group 4: Transit Mix Truck, 3 yds. and under; Truck Tenders; Slurry or Concrete Pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer, Low Boy, up to 96,000 lbs. GVW; Bulk Cement Tanker, up to 96,000 lbs. GVW; Fork Lift, over 3,000 lbs. (Bull Lift, Hydro Lift); Ross Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

Group 6: Transit Mix Truck, over 3 yds. to 6 yds.

Group 7: Water Tank Truck, over 4,000 gallons; Fuel Truck, over 1,000 gallons

Group 8: Transit Mix Truck, over 6 yds. to 8 yds.; Dumptors

Group 9: Distributor or Spreader Truck; Field Tireman, Serviceman; Snow Plow (truck mounted); Transit Mix Truck, over 8 yds. to 10 yds.

Group 10: Low Boy, 96,000 lbs. GVW and over; Bulk Cement Tanker, 96,000 lbs. GVW and over

Group 11: Transit Mix Truck, over 10 yds.

TRUCK DRIVERS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 12: Turnarocker and similar equipment

Group 14: Truck, side, end and bottom dump:
Class A: 6 yards and under
Class B: Over 6 yards - including 14 yards
Class C: Over 14 yards - including 20 yards
Class D: Over 20 yards - including 30 yards
Class E: Over 30 yards - including 40 yards
Class F: Over 40 yards - including 50 yards
Class G: Over 50 yards - including 75 yards
Class H: Over 75 yards - including 100 yards
Class I: Over 100 yards

Group 14: Truck Mechanic

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: Mississippi COUNTY: Statewide
DECISION NUMBER: MS80-1121 DATE: Date of Publication
Supersedes Decision Numbers:
MS80-1001 (dated January 18, 1980, 45 FR 3863)
MS80-1002 (dated January 18, 1980, 45 FR 3863)
MS80-1003 (dated January 18, 1980, 45 FR 3864)
MS80-1004 (dated January 18, 1980, 45 FR 3864)
MS80-1005 (dated January 18, 1980, 45 FR 3865)
MS80-1006 (dated January 18, 1980, 45 FR 3865)
MS80-1028 (dated January 18, 1980, 45 FR 3866)
DESCRIPTION OF WORK: Heavy Construction (including Water & Sewer Lines)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$ 8.00				
Carpenters	6.23				
Cement Masons	4.50				
Electricians	9.84				
Ironworkers	8.15				
Laborers:					
Unskilled	4.03				
Pipelayers	4.92				
Drillers	4.95				
Painters	7.00				
Plumbers	7.81				
Power Equipment Operators:					
Backhoe	6.51				
Bulldozer	5.82				
Crane	8.00				
Dragline	6.50				
Front End Loader	5.51				
Mechanic	8.15				
Oiler	5.51				
Welders - receive rate for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Greene
DECISION No.: MO80-4095 DATE: Date of Publication
Supersedes Decision No. MO79-4072 dated August 3, 1979 in 44 FR 45849
DESCRIPTION OF WORK: Building projects, (excluding 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.
ASBESTOS WORKERS	$12.82	.50	1.00		.04
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS, Stonemasons & tuck pointers	11.87	.60	.30		.05
CARPENTERS:					
Carpenters	11.38	.60	.50		.08
Millwrights & piledrivermen	11.63	.60	.50		.08
CEMENT MASONS	10.75				
ELECTRICIANS:					
Electricians	12.305	.47	3%+1.00	6%	.02
Cable splicers	12.705	.47	3%+1.00	6%	.02
ELEVATOR CONSTRUCTORS:					
Elevator constructors	14.135	1.195	.95	8%+a	
Elevator constructors' helpers	70%JR	1.195	.95	8%+a	
GLAZIERS:					
Outside	10.00				
Inside	7.38				
IRONWORKERS	12.235	.80	1.50	1.00	.05
LATHERS	11.45				
MARBLE MASONS, Tile layers & terrazzo workers	11.37	.60	.30		
PAINTERS:					
Brush, roller & tapers	9.90	.50			
Spray, sandblasting, paperhangers, hazardous materials, elevator shafts	10.40	.50			
PLASTERERS	10.75				
PLUMBERS & Pipefitters	13.36	.35	.25		.03
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	9.75	.83	.55		.04
LABORERS:					
GROUP 1	8.60	.60	.60		.10
GROUP 2	8.88	.60	.60		.10
GROUP 3	9.03	.60	.60		.10
GROUP 4	9.20	.60	.60		.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
GROUP 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
GROUP 3 - Mason tenders: Including plasterer tender, mortar mixer and fork lift operator
GROUP 4 - Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$11.13	.60	1.00		
GROUP 2	10.65	.60	1.00		
GROUP 3	10.05	.60	1.00		
GROUP 4	9.35	.60	1.00		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Crane, dragline; derrick; drum or tower hoist (2 drum); power shovel or back hoe (on tracks); piledriver; power blade, motor patrol; mechanic; hydraulic, self-propelled crane, stringer or cherry picker crane
GROUP 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1-drum); loader (track or rubber tire); tractor pusher; roller (asphalt); tractor or backhoe (on rubber tires); tractor (compaction roller or pull blade track)
GROUP 3 - Fork lift; roller; tractor (compaction roller or pull blade-rubber tire); distributor, (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over);
GROUP 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays.

"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: Missouri COUNTY: Cole
DECISION No. MO80-4096 DATE: Date of Publication
Supersedes Decision No. MO79-4076 dated November 23, 1979 in 44 FR 67295
DESCRIPTION OF WORK: Building projects, (excluding 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.
ASBESTOS WORKERS	$13.89	1.00	1.11		
BOILERMAKERS	14.02	1.375	1.10		.05
BRICKLAYERS, STONEMASONS, TILE LAYERS	11.70		.35		
CARPENTERS:					
Carpenters	11.45	.53	.30		.08
Millwrights	12.20	.53	.30		.08
Piledrivers	11.85	.53	.30		.08
CEMENT MASONS	12.30				
ELECTRICIANS:					
Electricians	13.00	.47	3%+.50	7%+.30	.01
Cable Splicers	13.25	.47	3%+.50	7%+.30	.01
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	11.80	.895	.69	3%+a	.025
Elevator constructors' Helpers	70%JR	.895	.69	3%+a	.025
LABORERS:					
General Laborer; Watchman; Flagmen, Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; wrecker (old/new structures); Form Handler; Post Hole Digger; Cleaning & clearing of all debris for all crafts; Loading & unloading, conveying, distributing, collecting & hoisiting of construction material & debris; Backfilling, grading & landscaping; Covering of tanks, structures & material piles with tarpaulins or other materials; Handling & cleaning of concrete chutes; Cleaning of concrete spills & chipping where hand tools are required; Cleaning of masonry & other type walls & windows; signal & hoisting concrete buckets;					

DECISION NO. MO80-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rodman; All tools run by gas, electricity, or air except vibrator, jack-hammer & paving breaker; air compressors; motor buggies; pumps, except set-up men & nozzle men; unloading & handling steel; Chipping tool operator; concrete mixer operator	9.50	.60	.50		
First Semi-Skill					
Brick mason, plasterer & cement finishers tenders; mortarmen; Scaffold builders for brick, plasterer & cement masons; forklifts (walk-behind, or other similar types)	9.75	.60	.50		
Second semi- skill					
Concrete pumps set-up men & nozzle men; Tile Layers, Bottom men, Sewers & Drains; Cutting Torch; Burning Bar; Trench or pier holes 12'or over; Wagon Drill; Air Track or any Mechanical Drill; Power Man; Tamper 100 lbs. or over; Paving breaker; Jackhammer & Vibrator; Laser Beam Man for Sewer; Grade Checker	9.85	.60	.50		
IRONWORKERS	13.575	.55	1.05		
LATHERS	11.00				
PAINTERS:					
Brush	10.70		.20		
Spray; Structural Steel; Stage or Saddle; Sand-blasting	11.20		.20		
PIPEFITTERS	14.05	2.435	1.64		
PLASTERERS	11.75				
PLUMBERS	13.255	.80	.95	.90	.20

DECISION NO. MO80-4096

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I					
Backhoe, Cableway; Crane, Crawler or truck; Crane, hydraulic truck or cruiser mounted 16 tons & over; Crane, locomotive, Derrick, steam; derrick car & derrick boat; Drag-line; Dredge; Gradall, crawler or tire mounted; locomotive, gas, steam & other powers; Piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); Switch boat; whriley	12.12	.75	1.00		
Group II					
Air tugger w/air compressor; Anchor placing barge; Asphalt spreader; Athey force feeder loader (self-propelled); Back-filling machine; Boat oper. push boat or tow boat (job site); Boiler, high pressure breaking in period; Boom truck, placing or erecting; Boring machine, footing foundation; Bullfloat; Cherry picker; combination concrete hoist & mixer such as mixermobile Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor-generator combination; Compressor Pump Combination; Compressor Welder Combination; Concrete breaker (truck or Tractor mounted); Concrete pump,					

DECISION NO. MO80-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OEPRATOR GROUP II CONT'D such as pumpcrete machine; Concrete Spreader; Conveyor, large (not self-propelled) hoisting or moving Brick & concrete into, or into & on floor level, one or both; Crane, hydraulic rough terrain, self-propelled; Crane, hydraulic truck or cruiser mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or Boring (wagon drills & any hand-drills obtaining power from other sources including concrete breakers, jackhammers & Barco equipment no engineer required); Elevating grader, engine man, dredge; Excavator or Powerbelt machine; Finishing machine, self-propelled oscillating screed; Fork lift; Grader road with power blade; Highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower-mobile, or similar equipment); Hoist stack; Hydrohammer; Lad-a-vator, hoisting brick or concrete; Loading machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking machine; Pipe wrapping machine; Plant, asphlat; Plant, concrete producing or ready-mix job site; Plant heatING job site; Plant, mixing job site; Plant, power, generating job site;					

DECISION NO. MO80-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4" quad-Track; Roller, Asphalt, Top or subgrade; Scoop, tractor drawn; Spreader box; Subgrader; Tie Tamper; Tractor-crawler, or wheel type with or without power unit, power take off, & attachments regardless of size; Trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; Welding machines (gasoline or diesel) more than one but not over four (regardless of size); Well drilling machines	12.12	.75	1.00		
Group III					
Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); concrete Saw, (self-propelled); Conveyor, large (not self propelled); Conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine; Elevator (building construction or alteration); Endless chain hoist; Fireman; Form grader; Generator, one over 30 KW or any number developing over 30Kw;					

DECISION NO. MO80-4096

POWER EQUIPMENT OPERATORS (GROUP III CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
greaser; Hoist, one drum regardless of size (except brick or concrete); lad-a-vator; Manlift; Mixer, asphalt, over 8 cu. ft. capacity; Mixer, if two or more of one bag capacity or less are used by one Employer on job, an operator is required; Mixer, without side loader 2 bag capacity or more; Mixers, with side loader, 2 bag capacity or more mixer, with side loader, regardless of size, not paver; Oiler on dredge; Oiler on truck crane; Pug mill operator; Pump; Sump-self-powered, automatic controlled over 2" during use in connection with construction work; Scissor lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 h.p. & under with grader blade & similar equipment; Welding machine, one over 400 amp.; Winch operating from truck; Mechanic in shop	10.87	.75	1.00		
Group IV					
Boat operator outboard motor (job site); Conveyors, (such as convay-it) regardless of how used; Oiler; Sweeper, floor	10.27	.75	1.00		
GROUP V					
(a) Air pressure; Oiler engineer operating under ten pounds	12.82	.75	1.00		

DECISION NO. MO80-4096

POWER EQUIPMENT OPERATORS (GROUP V CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(b) Air-pressure, oiler engineer operating over ten pounds	13.67	.75	1.00		
(c) Air-pressure engineer operating under ten pounds	14.12	.75	1.00		
(d) Air-pressure oiler engineer operating over ten pounds	14.87	.75	1.00		
(e) Crane, climbing (such as linden); Crane, pile driving & extracting; crane, using rock socket tool; Derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); dragline, 7 cu. yds. & over; Hoist, three or more drums in use; scoop, tandem; Shovel, power 7 cu. yds. & over; tractor, tandem crawler tunnel man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane-booms (including jib) 100 ft. to 150 ft.	12.62	.75	1.00		
Crane, boom (including jib) 150 ft. to 300 ft.	13.12	.75	1.00		
ROOFERS:					
Roofers	11.20		.35	.30	
Roofers in coal tar pitch	11.70		.35	.30	
SHEET METAL WORKERS	12.86	.50	.36		.05
TRUCK DRIVERS:					
Warehousemen; Dumper; Flat bed & pick-up; Farm tractor; Water truck, Single-axle; Fuel truck, Single axle	9.10	.75	1.00	d	
Tandem; Tractor trailer; Winch; Fork Lift; Tandem water truck; Tandem Fuel truck	9.50	.75	1.00	d	

DECISION NO. MO80-4096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
Tandem-slip-bed operation; pitman; hydro broom truck; Transit mixer; Euclid; Belly Dump; Cat Wagon; Oil Distributor; Ross Carrier; Dumpster; Half track; Water pull; Mechanic	9.80	.75	1.00	d	
SPRINKLER FITTERS	14.20	.85	1.20		.08

FOOTNOTES:

a - Employer contributes 8% of basic hourly rate for over 5 years service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay credit, also 7 Paid Holidays.

d - After 1 year a weeks vacation

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: Nebraska COUNTY: Lancaster
DECISION NO. NE80-4100 DATE: Date of Pulication
Supersedes Decision No. NE76-4178 dated October 15, 1976, in 41 FR 45813
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.
Bricklayers	$9.15				
Carpenters	5.59				
Cement masons	6.67				
Drywall finisher	5.20				
Electricians	8.50				
Laborers	4.63				
Painters	6.00				
Plumbers	8.45				
Roofers	7.66				
Sheet metal workers	6.40				
Truck drivers	5.35				
Power Equipment Operators:					
Backhoe	6.00				
Bulldozer	8.00				
Roller	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)".

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Clinton, Centre, Huntingdon, Fulton & Mifflin

DECISION NO.: PA80-3074 DATE: Date of Publication

Supersedes Decision No. PA79-3007 dated April 6, 1979, in 44 FR 20932.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or 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					
ZONE 1	12.225	.80	.90		.01
ZONE 2	12.26	1.12	.90		.01

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Clinton County
ZONE 2 - Centre, Huntingdon, Fulton and Mifflin Counties

BOILERMAKERS	15.57	1,275	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	11.35	.75	1.00		.01
ZONE 2	11.00	.55	.65		
ZONE 3	10.80	1.05	.75		.015
ZONE 4	12.05	.75	1.00		.01

AREA COVERED BY BRICKLAYERS AND STONEMASONS ZONES

ZONE 1 - Fulton and Huntingdon Counties
ZONE 2 - Mifflin County
ZONE 3 - Clinton County in its entirety, and the Remainder of Centre County
ZONE 4 - Townships in Centre County, Rush, Halfmoon, Taylor, Patton, Worth and Huston

CARPENTERS & SOFT FLOOR LAYERS	11.50	6%	8%	10%	1½%
CEMENT MASONS					
ZONE 1	12.36				
ZONE 2	11.95	9%	7%		
ZONE 3	11.33	.80	.80		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Centre, Clinton and Mifflin Counties
ZONE 2 - Huntingdon County
ZONE 3 - Fulton County

DECISION NO. PA80-3074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	12.44	1.02	1.35	1.23	.02
ZONE 2	10.81	.60	.60		.01

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Centre, Fulton, Huntingdon & Mifflin Counties
ZONE 2 - Clinton County

ELECTRICIANS					
ZONE 1	13.35	.55	.50+3%	.60	.10
ZONE 2	12.46	.65	3%+.67		½%
ZONE 3	10.58	.65	3%+.95	.75	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Fulton, Huntingdon and Remainder of Centre County
ZONE 2 - Mifflin County
ZONE 3 - Clinton County in its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines

ELEVATOR CONSTRUCTORS	11.70	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	70%ofJR	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%ofJR				
IRONWORKERS					
ZONE 1	12.75	.975	1.665		.04
ZONE 2	12.905	1.34	1.36		.03
ZONE 3	12.75	.75	1.40		

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Centre and Clinton Counties
ZONE 2 - Huntingdon and Mifflin Counties
ZONE 3 - Fulton County

DECISION NO. PA80-3074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE 1					
Unskilled Laborers	9.63	10%	9%		
Plasterers Tenders	9.68	10%	9%		
ZONE 2					
Unskilled Laborers	9.38	10%	9%		
Plasterers Tenders	9.43	10%	9%		

AREA COVERED BY LABORERS ZONES

ZONE 1 - Clinton County
ZONE 2 - Centre, Huntingdon, Fulton and Mifflin Counties

LATHERS					
ZONE 1	11.54		.30		.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - Centre, Clinton and Huntingdon Counties

LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
ZONE 1					
Lineman	14.70	.60	3%		3/8%
Groundman	8.76	.60	3%		3/8%
Winch Truck Operator	10.25	.60	3%		3/8%
ZONE 2					
Lineman, dynamite man, heavy equipment operators	12.37	.55	3%		3/8%
Groundman	8.30	.55	3%		3/8%
Winch Truck Operator	8.68	.55	3%		3/8%
ZONE 3					
Lineman	12.52	.60	3%		3/8%
Winch Truck Operator	8.73	.60	3%		3/8%
Groundman	7.45	.60	3%		3/8%

DECISION NO. PA80-3074

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Centre, Fulton and Huntingdon Counties
ZONE 2 - Clinton County
ZONE 3 - Mifflin County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	12.14	6.5%	6%	25%	½%
PAINTERS					
ZONE 1					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
ZONE 2					
Commercial					
Brush & Roller	11.24	1.10	1.00		.02
Spray	11.74	1.10	1.00		.02
Industrial					
Brush & Steel	12.09	1.10	1.00		.02
Spray	12.59	1.10	1.00		.02

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Clinton County
ZONE 2 - Centre, Fulton, Huntingdon and Mifflin Counties

PLASTERERS					
Clinton, Fulton and Huntingdon Cos.	12.85				.01
Centre and Mifflin Cos.	12.00				
PILEDRIVERMEN	14.05	6%	10%		.5%
PLUMBERS & STEAMFITTERS					
ZONE 1	12.01	.84	.80	1.00	.05
ZONE 2	12.78	.83	1.18	.75	.25
ZONE 3	11.80	1.00	1.00		.12

DECISION NO. PA80-3074

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE 1 - Clinton County
ZONE 2 - Huntingdon County
ZONE 3 - Centre, Fulton & Mifflin Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1					
Composition, damp and waterproof workers	10.25	.60	.45		
ZONE 2					
Composition & kettleman	11.15	.90	.85		
ZONE 3					
Composition roofers	14.76	.77	1.50		.16
ZONE 4					
Composition roofers	10.76	.80	.55		

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Fulton County
ZONE 2 - Clinton County
ZONE 3 - Huntingdon County
ZONE 4 - Centre & Mifflin Counties

SHEET METAL WORKERS					
ZONE 1	11.95	.75	.81		.02
ZONE 2	11.66	1.44	1.18		.14

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Clinton County
ZONE 2 - Centre, Huntingdon, Fulton & Mifflin Counties

SPRINKLER FITTERS	14.53	.85	1.20		.08
TRUCK DRIVERS:					
ZONE 1					
Service, dump, flat top, jeep fuel & water	8.27	d	e		
Transit mix, dump trailer, winch truck	8.35	d	e		
Euclid & tractor trailer	8.42	d	e		
Helpers	8.17	d	e		

DECISION NO. PA80-3074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: CONT'D					
ZONE 2					
Pick-ups, dump, service trucks flat trucks to and including Z license plates	9.47	f	g		
Transit-mix, winch trucks, tractor, all types euclids, ross lumber & trucks over Z plates	9.72	f	g		
ZONE 3	7.95				

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Centre, Huntingdon, Fulton Counties
ZONE 2 - Mifflin County
ZONE 3 - Clinton County

Welder - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Employer contribute 8% hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 year of service as vacation pay credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

DECISION NO. PA80-3074

FOOTNOTES: CONT'D

d. $59.00 per month.

e. $14.00 per week.

f. $93.03 per month per employee who have worked sixty (60) hours during the month.

g. $57.89 per month for employee who have worked sixty (60) hours or more during the month.

DECISION NO. PA80-3074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$13.875	1.05	1.00		.09
CLASS 1-A	14.125	1.05	1.00		.09
CLASS 1-B	14.375	1.05	1.00		.09
CLASS 1-C	14.625	1.05	1.00		.09
CLASS 2	13.725	1.05	1.00		.09
CLASS 3	11.85	1.05	1.00		.09
CLASS 3-A	12.35	1.05	1.00		.09
CLASS 4	11.20	1.05	1.00		.09
CLASS 5	10.15	1.05	1.00		.09
CLASS 6	10.45	1.05	1.00		.09
CLASS 6-A	10.55	1.05	1.00		.09
CLASS 6-B	10.70	1.05	1.00		.09
CLASS 6-C	11.45	1.05	1.00		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type under 25 ton, austin-western similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead) (truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oil to be discussed at per job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types) when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenace, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), hi-lift 4 yds or over, hoist-hod (2 cages up to 10 floors) Chicago Boom attached hoist (50 ft. or over) stacks, stoves or furnances) hoist (slipform jobs hop to or similar type with 180 swing hop to or similar type with 360 swing local koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck

DECISION NO. PA80-3074

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 CONT'D
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, whirley

CLASS 1-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 up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2 - Asphalt plant operator, Athey loader, Auger - truck or 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 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, muching machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is, 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, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge)

DECISION NO. PA80-3074

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 2 CONT'D
(within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H.P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumperete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regardless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) 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 machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

Class 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (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) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

DECISION NO. PA80-3074

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor 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, should (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A - Crane truck oiler & fireman

CLASS 6-B - Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C - Oiler - Truck crane 100 ton and over

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams, Berks, Bradford, Carbon, Columbia, Cumberland Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York
DECISION NO.: PA80-3073 DATE: Date of Publication
Supersedes Decision No. PA79-3012, dated May 18, 1979, in 44 FR 29253
DESCRIPTION OF WORK: Heavy and Highway Construction

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS/PILEDRIVERMEN	10.57	.60	.70		
CEMENT MASONS:					

Starting at the Franklin County line of Route 30 at the Tuscarora Mountains, follow the Franklin County line to Juniata County line; following Juniata County line to Susquehanna River then across Susequehanna River to the Dauphin County line; continue on the Dauphin County line to the Lebanon County Line to where Route 501 intersects the Lebanon County, then follow Route 501 to Lancaster County line; thence west to Susquehanna River to Route 920 and continue to Goldsboro, Lewisberry, and Rossville to Dillsburg; thence on Route 15 to Heidlersburg; thence on Route 234 to junction with Route 334, up Routes 334 and 34 to junction of road immediately south of Fayetteville; thence through New Franklin to Marion; thence to St. Thomas, then on Route 30 through Fort Loudon to Franklin County line at Tuscarora Mountains and west to include all of Fulton County.

Cumberland, Dauphin, Juniata, Perry, Adams, Lebanon, New Cumberland Army Depot in York County	11.33	.80	.80		
Berks County	10.79		1.65		
Bradford, Lycoming, Sullivan & Union Counties	10.60				
Columbia County	10.95	.55	.70		.01
Scranton in Lackawanna County, Susquehanna, Pike Tioga, Wayne, Wyoming Cos. Tobyhanna Army Depot in Monroe County, Remainder of Luzerne Co.	12.55				
Carbondale in Lackawanna County	10.45	.85	.70		
Lancaster & Remainder of York County	9.94	.35	.25		.01
Lehigh County	11.97	1.00	.41		
Luzerne County: Hazelton, Berwick, & Freeland Townships	13.25				
Wilkes Barre	11.05				
Monroe County Remainder of County	11.81	1.15	.50		

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: CONT'D					
Snyder, Montour, & Northumberland Counties	11.70				.01
Northampton County	12.00	.60	.75		.01
Schuylkill County	10.90	.70	1.25		
IRONWORKERS:					
Structural, Ornamental & Reinforcing:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	12.905	1.34	1.36		.03
LABORERS:					
Asphalts, tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalmen, leaser beam men (pipe laying, paving machine)	9.11	.60	.25		
Pneumatic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	9.31	.60	.25		

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: CONT'D					
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	9.66	.60	.25		
Blasters	9.89	.60	.25		
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	9.95	.60	.25		
Concrete surfaces	10.33	.60	.25		
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	9.75	.60	.25		
Chuck tenders, muckers, nippers, miners, & drillers helpers, inside laborers	10.04	.60	.25		
Miners, drillers, blasters, pneumatic shield operators lining, spotting & timers workmen, reinforcing steel placer placers, bonding, aligning and securing and concrete surfacers	10.52	.60	.25		
LINE CONSTRUCTION:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Counties, Pennsylvania:					
Linemen	12.52	.60	3%		3/8%
Winch Truck Op.	8.73	.60	3%		3/8%
Truck Driver	8.09	.60	3%		3/8%
Groundman	7.45	.60	3%		3/8%

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: CONT'D					
Berks & Lehigh Cos.					
Linemen	12.67	.60	3%		3/8%
Winch Truck Op.	8.86	.60	3%		3/8%
Truck Driver	8.19	.60	3%		3/8%
Groundman	7.55	.60	3%		3/8%
Northampton County					
Lineman	14.20	.60	3%		3/8%
Winch Truck Op.	9.90	.60	3%		3/8%
Truck Driver	9.18	.60	3%		3/8%
Groundman	8.47	.60	3%		3/8%
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susequehanna, Tioga, Union, Wayne, Wyoming Cos.					
Lineman	12.37	.55	3%		3/8%
Winch Truck Operator	8.63	.55	3%		3/8%
Truck Driver	8.50	.55	3%		3/8%
Groundman	8.30	.55	3%		3/8%
WATER & SEWAGE TREATMENT PLANT ONLY:					
Carpenters:					
Adams, Bradford, Columbia, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga & Union Counties	11.86	.60	.70		.05
York County:					
New Cumberland Army Depot & Harrisburg York State Airport in York County	11.86	.60	.70		.05
Remainder of York County	10.59	.85	.55		.03

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WATER & SEWAGE TREATMENT PLANT ONLY: CONT'D					
Luzerne County:					
Townships in Black Creek, Butler, Dennison, Foster, Hazel, Hollenback, Nescopeck, Sugar Loaf, & the lower part of Salem Townships	11.86	.60	.70		.05
Remainder of Luzerne County	11.79	.60	.70		.05
Carbon County:					
Banks, Lausanne, Lehigh, Packer & Kidder Townships north of Route 940	11.86	.60	.70		.05
Remainder of Carbon Co.	11.75	.84	.72		.05
Berks County	10.83	.82	.75		
Lackawanna, Pike, Susquehanna, Wayne, Wyoming Counties including Tobyhanna Army Depot in Monroe County	11.61	.70	.50		.05
Remainder of Monroe County	9.73	.44	.72		.02
Lehigh & Northampton Cos.	11.60	.87	.84		.05
MILLWRIGHTS:					
Adams, Bradford, Cumberland, Columbia, Dauphin, Juniata, Lebanon, Luzerne, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union & Lancaster Counties & Townships in Carbon County: Banks, Lausanne, Lehigh & northern part of Packer Wyoming County, York County, New Cumberland Army Depot & Harrisburg-York State Airport	13.52	.60	.70		.05

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS: CONT'D					
Berks County	11.35	.82	.75		
Lehigh & Northampton Cos.	12.15	.84	.72		.05
Monroe County	10.13	.44	.72		.01
Lackawanna, Susquehanna, Pike, Wayne Counties	12.19	.70	.50		.05
Remainder of Carbon Co.	12.15	.84	.72		.05
Remainder of York County	11.09	.85	.55		.03
PILEDRIVERMEN	11.97	2.63	1.40	a	.13

FOOTNOTES:
a - Paid Holidays; Washington Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day; Thanksgiving Day; Christmas Day.

POWER EQUIPMENT OPERATOR					
ZONE I (Heavy Construction)					
Group 1	13.14	7.9%	10.3%	a	1.8%
Group 2	12.85	7.9%	10.3%	a	1.8%
Group 3	11.97	7.9%	10.3%	a	1.8%
Group 4	11.20	7.9%	10.3%	a	1.8%
Group 5	10.72	7.9%	10.3%	a	1.8%
Group 6	9.80	7.9%	10.3%	a	1.8%
Group 7	13.39	7.9%	10.3%	a	1.8%
Group 7-A	13.64	7.9%	10.3%	a	1.8%
Group 7-B	13.89	7.9%	10.3%	a	1.8%
ZONE II					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

DECISION NO. PA80-3073

AREA COVERED BY POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

ZONE I - Lackawanna, Susquehanna, Wyoming, Pike, Wayne, Monroe, and Luzerne Counties.

ZONE II - Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lehigh Lycoming, Montour, Northampton, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union and York Counties.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above.

Group 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pipping type backhoes, boat Captains batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above.

Group 3: Conveyors, building hoists(single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above.

Group 4: Welding machines, well points, compressors, pumps, heraters, farm tractors, form line grader, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above.

DECISION NO. PA80-3073

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

Group 5: Fireman, grease truck

Group 6: Oilers and deck hands (personnel boats), core drill helper

Group 7: All machines with booms (including jib, mast, leads, etc.): 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

DECISION NO. PA80-3073

POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	11.80	7.9%	10.3%		1.8%
Group 2	10.96	7.9%	10.3%		1.8%
Group 3	10.45	7.9%	10.3%		1.8%
Group 4	10.01	7.9%	10.3%		1.8%
Group 5	9.46	7.9%	10.3%		1.8%
Group 6	12.05	7.9%	10.3%		1.8%
Group 6-A	12.30	7.9%	10.3%		1.8%
Group 6-B	12.55	7.9%	10.3%		1.8%

Group 1: Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pavers 21E and over, gradalls, all front end loaders, 4 cu. yds. and over, tandem scrapers, pippin type backhoes, Boat Captains, Batch plant with mixer, drill self contained (drillmaster type), CMI autograde, machines similar to above.

Group 2: Conveyor loader (EUC type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds., mechanic-welders, motor patrols, machines similar to above.

Group 3: Welding machine, well points, compressors, pumps heaters, farm tractors, form line graders, fine grade machine, ditch witch type trencher, road finishing machines, concrete breaking machines, rolers, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment) conveyors loaders other than EUC type, conveyors, machines similar to above.

Group 4: Fireman

Group 5: Oilers and deck hands

Group 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft. and over

Group 6-A: 150 ft. and over

Group 6-B: 200 ft. and over

Page 10

DECISION NO. PA80-3073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY TRUCK DRIVERS:					
CLASS I					
Helper, stake body truck (single axle), dumpster	10.32				
CLASS II					
Dump trucks, tandem & batch trucks, semi-trailer, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributor when used for transportation stake body truck (tandem)	10.39				
CLASS III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, lowbed trailers	10.88				

Welders - Rate for craft

"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: Utah COUNTIES: Statewide
DECISION NUMBER: UT80-5148 DATE: Date of Publication
Supersedes Decision No. UT80-5128 dated September 19, 1980, in 45 FR 62675
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.36	.77	$1.52		
BOILERMAKERS	13.31	1.275	1.25	1.00	.04
BRICKLAYERS	13.50	.60	.62		.10
CARPENTERS:*					
Building Construction:					
Carpenters	11.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	12.15	.65	.65	.25	.03
Millwrights	12.75	.65	.65	.25	.03
Piledrivermen	13.45	.65	.65	.25	.03
Heavy and Highway Construction:*					
Zone 1:					
Carpenters	11.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	12.15	.65	.65	.25	.03
Millwrights	12.75	.65	.65	.25	.03
Piledrivermen	13.45	.65	.65	.25	.03
Zone 2:					
Carpenters	12.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	13.15	.65	.65	.25	.03
Millwrights	12.75	.65	.65	.25	.03
Piledrivermen	13.45	.65	.65	.25	.03
Zone 3:					
Carpenters	13.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	14.15	.65	.65	.25	.03
Millwrights	12.75	.65	.65	.25	.03
Piledrivermen	13.45	.65	.65	.25	.03
CEMENT MASONS:					
Building Construction:					
Cement Masons	11.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	11.79	.65	.65	.25	.10

*See ZONE DESCRIPTIONS - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:* (Cont'd)					
Heavy and Highway Construction:					
Zone 1:					
Cement Masons	$11.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	11.79	.65	.65	.25	.10
Zone 2:					
Cement Masons	12.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	12.79	.65	.65	.25	.10
Zone 3:					
Cement Masons	13.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	13.79	.65	.65	.25	.10
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	11.54	.51	.40		.03
ELECTRICIANS:*					
Area 1:					
Zone 1:					
Electricians; Technicians	13.35	.75	3%+.75		8/10%
Cable Splicers	13.60	.75	3%+.75		8/10%
Zone 2:					
Electricians; Technicians	13.85	.75	3%+.75		8/10%
Cable Splicers	14.10	.75	3%+.75		8/10%
Zone 3:					
Electricians; Technicians	14.35	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/10%
Zone 3A:					
Electricians; Technicians	14.35	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/10%
Zone 4:					
Electricians; Technicians	15.75	.75	3%+.75		8/10%
Cable Splicers	16.00	.75	3%+.75		8/10%

*See AREA and ZONE DESCRIPTIONS - following Page

AREA and ZONE DESCRIPTIONS

CARPENTERS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

CEMENT MASONS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

ELECTRICIANS:
Area 1: North section of Utah - Box Elder and Cache Counties; Davis County (north of 41st Parallel); Morgan, Rich, and Weber Counties:
Zone 1: That area 10 miles on either side of Interstate Highway #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Highway #91 - Interstate #15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Highway #91
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel in Cache, Morgan, Weber Counties
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Highway #83
Zone 3A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91
Zone 4: All other area west of Zones 3 and 3A in Box Elder County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
In Zones 2, 3, and 3A, on any job or project not exceeding $200,000 electrical, labor and material including, Zone 1 rate shall apply.					
Area 2:					
Zone 1:					
Zone 1A:					
Electricians; Technicians	$13.35	.75	3%+.75		8/10%
Cable Splicers	13.85	.75	3%+.75		8/10%
Zone 1B:					
Electricians; Technicians	14.10	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/10%
Zone 1C:					
Electricians; Technicians	14.85	.75	3%+.75		8/10%
Cable Splicers	15.35	.75	3%+.75		8/10%
Zone 2:					
Electricians; Technicians	16.85	.75	3%+.75		8/10%
Cable Splicers	17.35	.75	3%+.75		8/10%
ELEVATOR CONSTRUCTORS	12.91	1.195	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.04	1.195	.95	a	.035
GLAZIERS:					
Area 1	17.02	.75	.40		.08
Area 2	13.16	.61	.60	.98	
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Structural	12.00	.75	1.35		.05
LATHERS	12.22	.55	.70		.01

*SEE AREA and ZONE DESCRIPTIONS - following Page

AREA and ZONE DESCRIPTIONS

ELECTRICIANS: (Cont'd)

Area 2: South section of Utah (Remaining Counties):

Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):

Zone 1A: Ten miles either direction (east or west) from Interstate Highway #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel

Zone 1B: The balance of Zone 1 that lies in Davis, Salt Lake, and Utah Counties

Zone 1C: That portion of the remainder of Zone 1 that lies in Tooele County

Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of the south section of Utah

GLAZIERS:

Area 1: Iron and Washington Counties

Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
Groundman	$ 9.57	.45	3%+.50		1/4%
Line Equipment Serviceman	11.49	.45	3%+.50		1/4%
Line Equipment Mechanic:					
Base Shop	12.29	.45	3%+.50		1/4%
Right-of-way	11.49	.45	3%+.50		1/4%
Line Equipment Operators	11.68	.45	3%+.50		1/4%
Linemen	13.00	.45	3%+.50		1/4%
Cable Splicers	14.34	.45	3%+.50		1/4%
MARBLE SETTERS	12.37	.60	.60		.04
MASON TENDERS	11.02	.50	.35		
PAINTERS:*					
Area 1:					
Brush; Roller	10.72	.51	.50		.05
Spray; Sandblast; Steeplejack; Brush, steel and bridge; Brush (swing stage)	10.97	.51	.50		.05
Spray (swing stage); Sandblaster (swing stage); Spray, steel and bridge	11.17	.51	.50		.05
Area 2:					
Brush; Roller	10.70	.51	.30		.02
Brush (swing stage); Brush (steel and bridge); Spray, sandblaster, Steeplejack	11.00	.51	.30		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	11.25	.51	.30		.02
Wallcovering Hanger	10.95	.51	.30		.02
PLASTERERS' TENDERS	11.15	.50	.35		
PLASTERERS	12.23	.65	.65		.10
PLUMBERS; Pipefitters	12.60	.81	1.10		.06
REFRIGERATION and AIR CONDITIONING	12.60	.81	1.10		.06
ROOFERS	11.74	.62	.35		.05
SHEET METAL WORKERS	14.30	1.15	1.39		.12
SOFT FLOOR LAYERS	9.98	.51	.27		
SPRINKLER FITTERS	13.17	.85	1.20		.08
TERRAZZO WORKERS and TILE LAYERS	12.37	.60	.65		.04

*See AREA DESCRIPTIONS - following Page

WELDERS: Receive rate prescribed for craft performing operation to which Welding is incidental.

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: A through G.

b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within an employee's vacation period he shall be allotted an additional day's vacation. 8 Paid Holidays: A through F, President's Day and Pioneer Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

AREA DESCRIPTIONS

PAINTERS:
Area 1: Box Elder, Cache, and Rich Counties; and the following Counties north of an east-west line from the north boundary of Farmington: Davis, Morgan, Summit, Tooele, and Weber Counties
Area 2: Remainder of State

LABORERS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.07	.50	.35	.25	.04
Group 2	9.20	.50	.35	.25	.04
Group 3	9.32	.50	.35	.25	.04
Group 4	9.57	.50	.35	.25	.04
Group 5	10.07	.50	.35	.25	.04

Group 1: General Laborer

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump (Head Hoseman); Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactors, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS:* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
	AREA 1	AREA 2	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.52	$10.02	.50	.35	.25	.04
Group 2	8.65	10.15	.50	.35	.25	.04
Group 3	8.77	10,22	.50	.35	.25	.04
Group 4	9.02	10.52	.50	.35	.25	.04
Group 5	9.52	11.02	.50	.35	.25	.04
Tunnel and Shaft Work:						
Group 1	8.67	10.17	.50	.35	.25	.04
Group 2	8.77	10.27	.50	.35	.25	.04
Group 3	8.97	10.47	.50	.35	.25	.04
Group 4	9.42	10.92	.50	.35	.25	.04

*See AREA DESCRIPITONS - following TRUCK DRIVERS' classifications

Group 1: General Laborers

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactor, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Tender; Puddler; Nipper; Tapman; Vibrator; Screedman

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Hoseman; Concrete Lead Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS:* Building Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pension	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$9.71	$11.71	$1.33	$1.735	.87	.08
Group 2	10.10	12.10	1.33	1.735	.87	.08
Group 3	10.30	12.30	1.33	1.735	.87	.08
Group 4	10.41	12.41	1.33	1.735	.87	.08
Group 5	10.92	12.92	1.33	1.735	.87	.08
Group 6	11.09	13.09	1.33	1.735	.87	.08
Group 7	11.21	13.21	1.33	1.735	.87	.08
Group 8	11.54	13.54	1.33	1.735	.87	.08
Group 9	11.61	13.61	1.33	1.735	.87	.08
Group 10	11.77	13.77	1.33	1.735	.87	.08
Group 11	11.95	13.95	1.33	1.735	.87	.08
Group 12	12.44	14.44	1.33	1.735	.87	.08
Group 13	13.40	15.40	1.33	1.735	.87	.08
Group 14	13.89	15.89	1.33	1.735	.87	.08
Group 15	14.17	16.17	1.33	1.735	.87	.08

*See AREA DESCRIPTIONS - following TRUCK DRIVERS' classifications

POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

Group 1: Assistant to Engineer; Elevator Operators; Hydraulic Monitor; Material Loader or Conveyor Operators

Grup 2: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Truck Crane Oiler

Group 3: Front End Loader (up to and including 1 cu. yds. struck M.R.C.); Hoist Operator - 1 drum; Slip Form Pumps

Group 4: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 5: A-Frame Truck and Tugger Hoist; Fork Lift (construction job site); Kolman Loader and similar; Loader Operator (over 1 cu. yd. to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired Tractor (with attachments, including Backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 6: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (Well or Diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's Foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without Dozer

Group 7: Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 9: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, larger than D-7 or similar)

Group 10: Motor Patrol

Group 11: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.)(up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 12: Remote Controlled (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 13: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 14: Operator of Helicopter (when used in erection work)

Group 15: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:* Heavy and Highway Construction	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.11	$12.61	$1.33	$2.05	$1.12	.17
Group 2	11.46	12.96	1.33	2.05	1.12	.17
Group 3	11.64	13.14	1.33	2.05	1.12	.17
Group 4	11.75	13.25	1.33	2.05	1.12	.17
Group 5	12.21	13.71	1.33	2.05	1.12	.17
Group 6	12.36	13.86	1.33	2.05	1.12	.17
Group 6-A	12.47	13.97	1.33	2.05	1.12	.17
Group 7	12.77	14.27	1.33	2.05	1.12	.17
Group 7-A	12.83	14.33	1.33	2.05	1.12	.17
Group 8	12.89	14.39	1.33	2.05	1.12	.17
Group 9	13.05	14.55	1.33	2.05	1.12	.17
Group 10	13.49	14.99	1.33	2.05	1.12	.17
Group 10-A	14.45	15.95	1.33	2.05	1.12	.17
Group 10-B	14.90	16.40	1.33	2.05	1.12	.17
Group 11	15.06	16.56	1.33	2.05	1.12	.17

*See AREA DESCRIPTIONS - following TRUCK DRIVERS' classifications.

Underground and Shaft Work:

Underground Work: Employees working underground shall receive $0.30 per hour in addition to their straight-time hourly wage rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $0.50 per hour in addition to their straight-time hourly rates.

POWER EQUIPMENT OPERATORS
HEAVY and HIGHWAY CONSTRUCTION

Group 1: Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Asphalt Plant Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - field; Repairman Tender - field; Chainman; Rodman

Group 2: Boxman, asphalt plant; Air Compressor Operator; Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Truck Crane Oiler (Assistant to Engineer)

Group 3: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper - multiple purpose; Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator - 1 drum Line Master; Slip Form Pumps

Group 4: Batch Operator (asphalt plant); Air Compressor Operator (2 or more compressors); Concrete Conveyor, building site; Lube and Service engineer (mobile and grease rack); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Slurry Seal Machine or similar; Small rubber-tired Tractors; Small self propelled pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

Group 5: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals); Engineer - Locomotive; Forklift (construction jobsite); Gradesetter; Kolman Loader (and similar); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired Trenching Machine; Small rubber-tired tractor (with attachments, including Backhoe); Small Tractor with boom; Surface Heater (self-propelled); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 6: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Conveyor or Concrete Pump, truck or equipment mounted, boom length to apply; Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marine); Drilling Machine Operator (Well or Diamond); Drilling and Boring Machinery, horizontal and vertical (not to apply to waterliners, wagon drills, or jack hammers); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High-lift (40 ft or simmilar); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor combination; Pavement Breaker, truck mounted, Compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Pipeline Wrapping Machine Perault, CRC, or similar types); Self-propelled Compactor with or without Dozer; Slusher Operator; Tractor Operator (Sheep's Foot and Compacting Equipment); Tractor Compressor Drill Combination; Trenching Machine

Group 6-A: Side Boom Operator; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or Boom attachment, up to and including D-7 or similar); Instrumentman

Group 7: Asphalt Plant Engineer; Chicago Boom (including Stiff Leg ang Sheer Pole); Combination Backhoe and Loader (3/4 cu. yds. or over M.R.C.); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Domor Loader and Adams Elegrader; Engineer, Crushing Plant; Euclid Loader and similar types; Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Koehring Skooper (or similar) (up to 5 cu. yds. struck M.R.C.); Mechanical Trench Shield; Mucking Machine Operator Rubber-tired Scrapers (under 35 cu. yds. struck M.R.C.); Saurman type Dragline (under 5 cu. yds. struck M.R.C.); Self-propelled Boom-type Lifting device (center mount) (10-ton capacity or less M.R.C.); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Tri Batch Paver; Tunnel Mole (or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 7-A: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or boom attachment, larger than D-7 or similar)

Group 8: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity)

Group 9: DW-10, 20, etc. (Tandem Scrapers); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Pre-stress Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck M.R.C.); Self-propelled boom-type lifting device (center mount) (over 10 tons); Tractor (Tandem Scrapers); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.)

Group 10: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar) (5 cu. yds. and over struck M.R.C.); Multiple-propulsion Power Unit Earthmovers (up to and including 75 cu. yds. struck M.R.C.); Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck M.R.C.); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over struck M.R.C.); Slip Form Paver (concrete or asphalt); Sub-grader (automatic Sub-grader - Fine Grader, CMI or similar); Tandem Tractors; Tower Cranes Mobile

Group 10-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu.yds. M.R.C.); Multi-purpose Earthmoving Machines (2 or more scrapers) (over 75 cu. yds. struck M.R.C); Power Shovels and Draglines (over 7 cu. yds. struck M.R.C)

Group 10-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 11: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Erection					
Group 1	$11.19	$1.28	$1.90	$1.00	.14
Group 2	11.60	1.28	1.90	1.00	.14
Group 3	12.72	1.28	1.90	1.00	.14
Group 4	12.88	1.28	1.90	1.00	.14
Group 4-A	13.21	1.28	1.90	1.00	.14
Group 5	13.76	1.28	1.90	1.00	.14
Group 6	14.23	1.28	1.90	1.00	.14
Group 6-A	14.88	1.28	1.90	1.00	.14
Group 7	16.03	1.28	1.90	1.00	.14
Piledriving					
Group 1-A	10.68	1.28	1.90	1.00	.14
Group 1-B	11.05	1.28	1.90	1.00	.14
Group 1-C	11.28	1.28	1.90	1.00	.14
Group 2-A	11.28	1.28	1.90	1.00	.14
Group 2-B	12.10	1.28	1.90	1.00	.14
Group 3	12.43	1.28	1.90	1.00	.14
Group 3-A	12.90	1.28	1.90	1.00	.14
Group 4	13.50	1.28	1.90	1.00	.14
Group 5	13.69	1.28	1.90	1.00	.14
Group 6	14.93	1.28	1.90	1.00	.14

Underground and Shaft Work:

Undergorund Work: Employees working underground shall receive $.30 per hour in addition to their straight-time hourly rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $.50 per hour in addition to their straight-time hourly rate.

POWER EQUIPMENT OPERATORS
Steel Erection

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Rodman, Chainman; Assistant to Engineer (Truck Crane Oiler)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6)(structural steel or tank erection only); Deck Engineer; Forklift; Instrumentman; Signalman (using mechanical equipment)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual purpose A-frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons M.R.C. or less); Single drum Hoist; Self-propelled Boom-type lifting device (center mount)(10 ton capacity or less M.R.C.); Tugger Hoist; Overhead Cranes (15 tons M.R.C. or less)

Group 6: Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Two or more drum Hoist; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); Overhead Cranes (over 15 tons M.R.C.)

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1: Deckhand; Fireman; Oiler

Group 1-A: Compressor Operator

Group 1-B: Truck crane Oiler (Assistant to Engineer)

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machine (powered other than by electricity)

Group 3: A-Frames; Deck Engineer; Forklift Operators; Self-propelled boom-type lifting device (center mount)(10-ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operator of Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler)(up to and including 1 cu. yd. rating); Truck Crane Operator (up to and including 25 tons) (hoisting material only); Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Self-propelled boom-type lifting device (center mount)(over 10 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS:*	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$10.625	$12.625	$1.13	$1.21	$1.00	.10
Group 2	10.675	12.675	1.13	1.21	1.00	.10
Group 3	10.725	12.725	1.13	1.21	1.00	.10
Group 4	10.75	12.75	1.13	1.21	1.00	.10
Group 5	10.825	12.825	1.13	1.21	1.00	.10
Group 6	10.85	12.85	1.13	1.21	1.00	.10
Group 7	10.90	12.90	1.13	1.21	1.00	.10
Group 8	11.00	13.00	1.13	1.21	1.00	.10
Group 9	11.05	13.05	1.13	1.21	1.00	.10
Group 10	11.075	13.075	1.13	1.21	1.00	.10
Group 11	11.15	13.15	1.13	1.21	1.00	.10
Group 12	11.175	13.175	1.13	1.21	1.00	.10
Group 13	11.25	13.25	1.13	1.21	1.00	.10
Group 14	11.30	13.30	1.13	1.21	1.00	.10
Group 15	11.35	13.35	1.13	1.21	1.00	.10
Group 16	11.55	13.55	1.13	1.21	1.00	.10
Group 17	11.625	13.625	1.13	1.21	1.00	.10
Group 18	11.725	13.725	1.13	1.21	1.00	.10
Group 19	11.75	13.75	1.13	1.21	1.00	.10
Group 20	11.80	13.80	1.13	1.21	1.00	.10
Group 21	11.86	13.86	1.13	1.21	1.00	.10
Group 22	11.95	13.95	1.13	1.21	1.00	.10
Group 23	12.05	14.05	1.13	1.21	1.00	.10
Group 24	12.07	14.07	1.13	1.21	1.00	.10
Group 25	12.30	14.30	1.13	1.21	1.00	.10
Group 26	12.55	14.55	1.13	1.21	1.00	.10

*See AREA DESCRIPTIONS - following TRUCK DRIVERS' classifications

TRUCK DRIVERS

Group 1: Chauffeurs

Group 2: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (Pickup); Gas Station Attendants

Group 3: Water, Fuel and Oil Trucks (less than 1200 gallons)

Group 4: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity less than 10 tons)

Group 5: Washers

Group 6: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (less than 8 yds.); Water, Fuel and Oil Trucks (1200 gallons to less than 2500 gallons)

Group 7: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity 10 tons and less than 15 tons)

Group 8: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (8 yds. and less than 14 yds.); Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity 15 tons and less than 20 tons); Water, Fuel and Oil Trucks (2500 gallons to less than 4000 gallons); Sweeper or Vacuum Truck

Group 9: Construction Job Serviceman, Fork Lift, Straddle Truck; Warehouseman (Counter Clerk)

Group 10: Transit Mix Trucks (less than 8 cu. yds.); Concrete Pumping Trucks

Group 11: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (14 yds. and less than 35 yds.); Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-trailer (carrying capacity 20 tons and over)

Group 12: Transit Mix Trucks (over 8 cu. yds. to 14 cu. yds.)

Group 13: Tireman and Greaser

TRUCK DRIVERS (Cont'd)

Group 14: Water, Fuel and Oil Trucks (4000 gallons to less than 6000 gallons)

Group 15: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (35 yds. and less than 55 yds.)

Group 16: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarocker and Dumpcrete) (55 yds. and less than 75 yds.); Water Fuel and Oil Trucks (6000 gallons to less than 10,000 gallons); Oil Spreader Operator (on single man operation where Boot Man is not required)

Group 17: Teamster, driving two horses

Group 18: Teamster, driving three or more horses

Group 19: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarocker and Dumpcrete) (75 yds. and less than 95 yds.)

Group 20: Water, Fuel and Oil Trucks (10,000 gallons to less than 15,000 gallons)

Group 21: Teamster Mechanics, Teamster Welder

Group 22: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (95 yds. and less than 105 yds.)

Group 23: Water, Fuel and Oil Trucks (15,000 gallons to less than 20,000 gallons)

Group 24: Dump Trucks - water level capacity (bottom, end and side) (including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete) (105 yds. and less than 130 yds.), (all 130 cu. yds. and over to be paid one-half cent ($0.005) per cu. yd. capacity per hour in addition to rate for 105 yds. and less than 130 yds.)

Group 25: Water, Fuel and Oil Trucks (20,000 gallons to less than 25,000 gallons)

Group 26: Water, Fuel and Oil Trucks (25,000 gallons and over)

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)).

AREA DESCRIPITONS
Laborers
(Heavy and Highway Construction)

Power Equipment Operators

Truck Drivers

AREA 1: All area included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24, south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;

[FR Doc. 80-38200 Filed 12-11-80; 8:45 am]
BILLING CODE 4510-27-C

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning. Commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utha/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 as defined.

Federal Register

Friday
December 12, 1980

Part III

Department of the Interior

Heritage Conservation and Recreation Service

Pinelands National Reserve, New Jersey; Availability of Final Environmental Statement

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

[INT FES 80-51]

Pinelands National Reserve, New Jersey; Availability of Final Environmental Statement

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Notice.

SUMMARY: The Heritage Conservation and Recreation Service announces the availability of the Final Environmental Impact Statement on the proposed New Jersey Pinelands Comprehensive Management Plan which was prepared by the Pinelands Commission.

FOR FURTHER INFORMATION CONTACT: Bernard Fagan, Outdoor Recreation Planner, Heritage Conservation and Recreation Service, 600 Arch Street, Philadelphia, Pennsylvania 19106, (215) 597-2334.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department has prepared a final environmental impact statement on the environmental consequences of implementing the New Jersey Pinelands Comprehensive Management Plan. The 1.1 million acre Reserve is located in Atlantic, Camden, Cape May, Cumberland, Gloucester, and Ocean Counties in southern New Jersey. The Plan was prepared in response to the requirements of section 502 of the National Parks and Recreation Act of 1978 (Pub. L. 95-625) which established the Pinelands National Reserve.

The Plan consists of policies and regulations designed to enhance the preservation and protection of the ecological, scenic, recreational, and public health values of the Pinelands.

The Notice of Availability for the draft environmental statement (INT DES 80-61) appeared in the Federal Register September 26, 1980 (45 FR 63944) and the required 45-day public review period ended November 10, 1980.

The Secretary of the Interior is responsible for approving or disapproving the Comprehensive Management Plan at the Federal level. The Secretary's decision will take into account the provisions of section 502 of Pub. L. 95-625, and the findings of the environmental impact statement. Approval of the Plan would make available Federal grants for land acquisition in the Pinelands. The Secretary will make a decision on or after January 12, 1981. Comments received up to that date will be considered in the decision-making process. Copies of the final statement are available for inspection at the following locations:

A. County Planning Offices in Camden, Cumberland, Atlantic, Gloucester, Ocean, Burlington and Cape May Counties;

B. Offices of the Municipal Clerks in all Pinelands municipalities; and

C. The public and college libraries in the Pinelands municipalities, and selected college libraries outside of the Pinelands.

D. The following Federal agency offices:

- Federal Regional Council II, 26 Federal Plaza, Room 1-102, New York, NY 10007
- Northeast Regional Office, Heritage Conservation and Recreation Service, 600 Arch Street, Room 9310, Philadelphia, PA 19106
- National Park Service, 143 South Third Street, Philadelphia, PA 19106
- National Park Service, 15 State Street, Boston, MA 02109
- Division of Federal Lands Planning, Heritage Conservation and Recreation Service, Pension Building, 440 "G" Street, NW, Room 236, Washington, DC 20243
- Office of Public Affairs, National Park Service, Main Interior Building, 18th & "C" Streets, NW, Room 3045, Washington, DC 20240
- Office of the Assistant Field Supervisor, Fish and Wildlife Service, Absecon, NJ 08201

Single copies may be obtained by writing to the Regional Director, Northeast Regional Office, Heritage Conservation and Recreation Service, 600 Arch Street, Philadelphia, PA 19106.

Dated: December 4, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-38284 Filed 12-11-80; 8:45 am]

BILLING CODE 4310-03-M

federal register

Friday
December 12, 1980

Part IV

Department of Agriculture

Forest Service

Oil and Gas and Mineral Leasing on Designated Wilderness, Congressionally Mandated Wilderness Areas, and Administration-Endorsed Wilderness Proposals

DEPARTMENT OF AGRICULTURE

Forest Service

Oil and Gas and Mineral Leasing on Designated Wilderness, Congressionally Mandated Wilderness Areas, and Administration-Endorsed Wilderness Proposals

Notice of the proposed development and issuance of standards, criteria and guidelines (SCG), and request for public comment on the proposal.

Introduction

The Forest Service proposes to develop and issue special directions regarding consideration of oil and gas and other mineral lease applications in designated wilderness, proposed wilderness, and Congressionally mandated wilderness study areas. The direction will primarily relate to scheduling and analysis processes to comply with the National Environmental Policy Act (NEPA).

Background

The Forest Service administers 111 areas, totaling 17.6 million acres, that have been designated as wilderness under the provisions of the Wilderness Act of 1964. In the Second Roadless Area Review and Evaluation (RARE II) decision of April 16, 1979, 15.5 million acres were proposed for wilderness. This proposal includes approximately 0.3 million acres of approximately 1.5 million acres that have been designated by Congress as wilderness study areas. The remaining 1.2 million acres of Congressionally mandated study areas have been recommended for non-wilderness or are scheduled for further study.

As of September 1980, none of the wilderness proposals or Congressionally mandated study areas had received final action by the Congress, although a number of them, plus additional proposals by the Congress, were being actively considered.

Section 4(d)(3) of the Wilderness Act provides that until midnight of December 31, 1983, lands in wildernesses designated by the Act are open to the mineral leasing laws to the same extent as before passage of the Act. Land in Congressionally designated study areas and RARE II wilderness proposals are also open to leasing, unless withdrawn for some other reason. (The Secretary of Agriculture is directed, by legislation establishing certain wilderness study areas, to preserve wilderness character. This may or may not be compatible with leasing, depending on the local circumstances). A number of these areas have pending noncompetitive oil and gas and other mineral lease applications and/or proposals for competitive lease sales; and other applications or proposals may be made prior to the end of 1983.

Oil and gas and mineral leases are issued and administered by the Secretary of the Interior under terms of the Leasing Act of 1920, the 1947 Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Federal Coal Leasing Amendments Act of 1975. Under various statutes and interagency agreements, the Forest Service exercises its land management responsibilities by notifying the Department of the Interior as to its recommendations (or as to its consent or denial in some circumstances) on the issuance of leases. The Wilderness Act of 1964 provides statutory authority for the Forest Service to require:

> . . . reasonable stipulations . . . for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased . . .

However, the Wilderness Act does not provide the Forest Service authority to deny leases because of wilderness designation.

The Forest Service Manual, Chapter 2820, delegates to Regional Foresters the responsibility for leasing decisions (to the extent that the Forest Service has authority) on most areas; but reserves to the Chief of the Forest Service that authority for certain National Forest System lands, such as those covered by this notice. Decisions on lease recommendations (or consent or denial, as appropriate) and on lease stipulations are made according to the process required by NEPA, as interpreted by the Council on Environmental Quality regulations (40 CFR 1500–1508) and the Forest Service Manual, Chapter 1950.

The NEPA process involves interdisciplinary analysis at the appropriate level of the Forest Service. The appropriate level is the level of expertise closest to the field unit having the most direct specific knowledge of an action under consideration. There are certain steps of the process, however, which must be specifically approved by the responsible official who, in the areas covered by this notice, is the Chief of the Forest Service.

Previously, wilderness leasing analyses have not been coordinated by the Chief of the Forest Service. Some areas in designated or proposed wildernesses have been considered for leasing, along with non-wilderness areas, at the discretion of the Regional Foresters, subject to general direction through the Forest Service Manual and the approval of the Chief.

The Forest Service is developing standards, criteria, and guidelines to provide direction to field units for the analysis of leasing proposals in designated wilderness, proposed wilderness, and Congressionally designated wilderness study areas. This direction will amend and supplement existing Forest Service Manual direction. The purposes of the SCG are to clarify the legal requirements under Section 4(d)(3) of the Wilderness Act, applicable leasing Acts, NEPA and Forest Service policy. The goal is to achieve an orderly and consistent approach to wilderness leasing decisions. The proposed SCG are presented below.

DATES: Comments must be received by February 10, 1981.

ADDRESSES: Send written comments to: Sidney F. Gray, Department of Agriculture, Forest Service, Minerals and Geology Management, P.O. Box 2417, Washington, D.C. 20013, phone (703) 235–1750.

All written submissions made pursuant to this notice will be available for public inspection in Room 805, 1621 North Kent Street, Rosslyn Plaza, Building E, Arlington, Virginia, during regular business hours (7 CFR 1.27(b)).

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified significant.

Proposed Standards, Criteria, and Guidelines

Schedule

Leasing proposals and applications will be considered as soon as practical after receipt. They will not be delayed until completion of land and resource management plans under the National Forest Management Act. Good faith effort will be made to process all pending applications and proposals through the Office of the Chief before January 1983. In order to avoid an unmanageable concentration of work at the Washington Office, Regional Foresters shall submit tentative schedules for all wilderness leasing actions for coordination and adjustment by the Chief.

Unit of Analysis

The basic unit for analysis will be an individual wilderness, proposed wilderness, or Congressionally designated wilderness study area where leasing is being proposed. Adjacent or nearby units may be combined if the

environmental factors are relatively consistent within the units. Also, wilderness units may be combined with adjacent or surrounding nonwilderness land of similar environmental conditions within a geographic region, provided there is accommodation in the Environmental Assessment (EA) and/or Environmental Impact Statement (EIS) for divided responsibilities and for different issues and concerns.

This analysis will address general issues and concerns, and will develop a process or rationale for lease-by-lease decisions. Supplemental analyses may be required to address site-specific issues on individual lease applications, or small blocks of applications.

Type of Documentation

Each analysis will be documented in an EA, and/or an EIS. An EIS will be prepared if the Chief of the Forest Service determines that leasing a particular area would be a major Federal action significantly affecting the quality of the human environment. Factors that will be considered in making that determination are:

1. Percentage of the area under application or proposed for leasing.
2. Location of pending leases within the area.
3. Accessibility.
4. Difficulty of restoration.
5. Degree of wilderness-related use.
6. Fragility of the wilderness character.
7. Major environmental factors, not necessarily related to wilderness values.

Public Participation

Each analysis will include scoping, with public participation as required by Forest Service Manual 1951.1, to help identify critical issues, concerns, and opportunities related to the particular area.

Issues, Concerns and Opportunities

The issues, concerns, and opportunities shall, as a minimum, include:

1. Compliance with law, including Sections 4(d)(2) and 4(d)(3) of the Wilderness Act.
2. The need to make lands available for oil and gas and mineral leasing commensurate with the Nation's need for these resources.
3. The requirement to develop reasonable stipulations for the protection of wilderness character and other significant values. Stipulations shall cover:

a. Impacts on visual quality from trails and human use concentration areas:

b. Impacts on active and passive, primitive and unconfined recreation experiences.

c. Effects on air quality.

d. Effects on water quality.

e. Effects on cultural resources.

f. Short- and long-term effects on wild ecosystems and wildlife, including threatened and endangered species.

g. Effects on unique geological or other natural features.

Other issues and concerns identified through the in-house and public involvement process shall be evaluated as to their applicability and significance to the issue. Each serious suggested issue judged inapplicable or insignificant must be identified and the judgment explained.

Analysis Standards

For each analysis, information collection standards for kind, amount, intensity, and accuracy shall be the minimum necessary to allow the Chief to make an informed dicision. The standards for each environmental review shall be based on:

1. The significant controlling issues and concerns, based on an early scoping (analysis and ranking) of issues, concerns, and opportunities.
2. The multi-stage nature of mineral exploration and development. If there are numerous existing or potential lease applications in the area with variable circumstances, the analysis should cover broad issues (in as much detail as reasonable) and cumulative effects. Supplemental analyses can address special local conditions as required. Site-specific aspects will be best handled through analyses of proposed operating plans. Tiering of multiple stages of analysis may be used as means of simplifying and streamlining the process, but it should not be used if the apparent effect would be delay and confusion.
3. The degree of discretion available and the degree of existing control through regulations, standard lease terms, and other means. The analysis may identify issues over which the Forest Service has no control, or issues which can be adequately and routinely handled through established regulatory procedures; however, the degree of data accumulation and analysis shall be limited to that needed for an informed dicision.

Formulation of Alternatives

Each analysis shall include and consider the alternatives available to the Forest Service. Realistic alternatives which are not within the discretion of the Forest Service must also be presented with an explanation of the requirements for adoption. The basic leasing alternatives should include the following:

1. Leasing with reasonable stipulations to protect wilderness character. This can include revocation or modification of existing withdrawals, if appropriate.
2. No leasing on grounds other than wilderness designation or allocation, and withdrawal from leasing laws.
3. For Congressionally mandated wilderness study areas, no leasing on grounds that leasing is incompatible with preservation of existing wilderness character, where such is required by the authorizing legislation.

An alternative preferred by the field office may not always be accepted by the Chief. Further, the Secretary of the Interior is not required to accept a leasing recommendation from the Forest Service. Therefore, all logical leasing alternatives proposed must include appropriate and reasonable stipulations.

Specifically, each analysis shall assume the adoption of alternative 1 (above) for the purpose of developing and evaluating reasonable alternative stipulations to protect wilderness values. The range of suitable alternative sets of stipulations should include the following:

1. Standard stipulations alone.
2. No-surface occupancy, for all or part of the area, provided that the opportunity to explore for and develop the mineral resources is not unreasonably hindered.
3. General standards for operations and reclamation.
4. Special stipulations for resource protection or mitigation of specific impacts.
5. Some combination of the above.

Evaluation Criteria

Alternatives shall be evaluated by the following criteria:

1. Is it (each alternative) compatible with law and regulations?
2. How effective is it in making the lands available for normal mineral activities?
3. How effective is it in preserving wilderness character?
4. How effective is it in meeting other significant concerns (economic, social, environmental) not necessarily related to wilderness?
5. How reasonable are the tradeoffs between mineral and nonmineral resources that may be in conflict?

Douglas R. Leisz,

Associate Chief.

December 1, 1980.

[FR Doc. 80-38145 Filed 12-11-80; 8:45 am]

BILLING CODE 3410-11-M

Federal Register

Friday
December 12, 1980

Part V

Department of Health and Human Services

Food and Drug Administration

Vaginal Contraceptive Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 351

[Docket No. 80N-0280]

Vaginal Contraceptive Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) vaginal contraceptive drug products are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Panel on OTC Contraceptives and Other Vaginal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by March 12, 1981, and reply comments by April 13, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on December 8, 1978, a report of the Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products. The first portion of the Panel's review, covering OTC vaginal contraceptive drug products, is published below. The portion covering other vaginal drug products will be published in a future issue of the Federal Register. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the agency issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC vaginal contraceptive drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditons under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel, which have been prepared independently of FDA, are issued here as a formal proposal to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. This document represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. FDA is presently evaluating the Panel's recommendations and conclusions and plans to review carefully all comments and reply comments, and other data submitted in response to this proposal. After FDA has completed that review, the Commissioner will issue in the Federal Register a tentative final order that will address OTC vaginal contraceptive drug products.

Although FDA has not yet fully evaluated the Panel's report, the agency shares the Panel's concern that "the contraceptive effectiveness of active ingredients cannot be considered separately from the vehicle, the method of delivery, and the actions of other ingredients in the final product." (See part II. paragraph A., below.) The Panel recommended that FDA require in vitro testing to determine the spermicidal activity of each final formulation prior to marketing. FDA agrees that in vitro testing will provide a qualitative measure of a product's potential effectiveness. The results of such an in vitro test will not, however, adequately describe the quantitative effectiveness of the final formulation when it is used in humans.

Because of the considerable consumer interest in knowing whether each vaginal contraceptive product is effective, the agency is considering various approaches to ensure that those data are available. FDA invites comments and other information on how best to achieve this goal. As explained above, the agency believes that in vitro testing alone is an inadequate measure of a product's effectiveness in human use. Accordingly, it appears that clinical trials of each product or final formulation may be the only certain predictor of its effectiveness in humans. Should FDA decide that clinical trials are necessary to prove the effectiveness of each vaginal contraceptive product, the agency will announce that decision, and the procedures for complying with it, in a separate Federal Register notice or in the tenative final order for OTC vaginal contraceptives. A decision that clinical trials are necessary to establish effectiveness may require manufacturers to submit a new drug application (NDA) for approval or to supplement an existing NDA.

FDA is also aware that there is a strong consumer interest in knowing the actual percentage effectiveness of each OTC vaginal contraceptive product and that the Panel also believed that information on the various levels of effectiveness of vaginal contraceptive agents would be most helpful to the consumer. FDA concurs with the Panel that the most valuable labeling is that which expresses effectiveness in terms of the percent of women for whom the product is effective under described conditions of use. Ideally, this kind of labeling would compare the efficacy of the specific vaginal contraceptive drug product to that of other forms of birth control. However, the Panel placed all comparative effectiveness claims in Category II on the basis that there are no valid studies presently available to support such comparative labeling. In view of the difficulties associated with the testing necessary to support such claims, the Panel further recommended that "if, in the future, a manufacturer desires to label a product with such claims, the substantiating data must be submitted to the FDA through the new drug procedures." (See part III. paragraph C.3., below—Category II labeling.) The agency invites comment as to whether quantitative claims of effectiveness should be required in the labeling of vaginal contraceptive drug products and, if so, what types of studies should be undertaken to substantiate such claims.

FDA recognizes that the Panel classified the ingredient menfegol in Category I as an OTC vaginal contraceptive and that menfegol has been sold abroad for a number of years. The Panel relied on foreign studies and marketing experience to justify its Category I classification; however, the agency believes that there is no basis for general recognition of safety or effectiveness in this country because menfegol is a new molecular entity, never before marketed as a drug in the United States. Data on such ingredients should be submitted to FDA in a new drug application.

Finally, as announced in this preamble, FDA is particularly concerned that the formulation problems attendant to the manufacture of this class of products may necessitate clinical trials to substantiate claims of effectiveness for each vaginal contraceptive product. Accordingly, the agency has concluded that no drug product containing a new

chemical entity may be marketed OTC until FDA has had the opportunity to evaluate data to establish the safety, and effectiveness of the new product.

FDA has determined that menfegol is a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and that the ingredient may not be marketed for use as a vaginal contraceptive until FDA has approved an NDA for a specific product. Any clinical studies on menfegol must be conducted in accordance with section 505(i) of the Act (21 U.S.C. 355(i)) and § 312.1 (21 CFR 312.1) of the regulations.

In accordance with § 330.10(a) ((2) (21 CFR 330.10(a)(2)), the Panel and FDA have held as confidential all information concerning OTC vaginal contraceptive drug products submitted for consideration by the Advisory Review Panel. All this information will be put on public display in the Hearing Clerk's Office, Food and Drug Administration, after January 12, 1981, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or § 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address given above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (monograph conditions), be effective 30 days after the date of publication of the final monograph in the Federal Register.

2. That the conditions excluded from the monograph, either because they would cause the drug to be not generally recognized as safe and effective or to be misbranded or because the available data are insufficient to support the inclusion of such conditions in the monograph (nonmonograph conditions), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the Federal Register, regardless of whether further testing is undertaken to justify their future use.

FDA published in the Federal Register of May 13, 1980 (45 FR 31422) its proposal to revise the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) are unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph. Accordingly, the proposed regulations would delete this provision and provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, would need to be done during the OTC drug rulemaking process, before the establishment of a final monograph (45 FR 31424).

Although it was not required to do so under *Cutler*, FDA also proposed to stop using the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). Any OTC drug product containing a "nonmonograph condition" would be subject to regulatory action after the establishment of a final monograph. This document, however retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the Federal Register of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC vaginal contraceptives and other vaginal drug products was issued in the Federal Register of May 16, 1973 (38 FR 12840).

The Commissioner appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety effectiveness, and labeling of those products:

Elizabeth B. Connell, M.D., Chairman
Evelyn M. Benson, R.Ph.
Cynthia W. Cooke, M.D.
Myron Gordon, M.D.
William A. MacColl, M.D.
William H. Pearlman,, M.D.
Louise B. Tyrer, M.D.

Two nonvoting liaison representatives served on the Panel. Virginia K. Rosenbaum, B.A., served as the consumer liaison. George A. Braun, Ph.D., served as industry liaison, and in his absence Forrest C. Greenslade, Ph.D., served.

The following FDA employees assisted the Panel: James P. Burns, Jr., Ph.D., served as Executive Secretary until July 1977, followed by A. T. Gregoire, Ph.D. Armond M. Welch, R.Ph., served as Panel Administrator. Lloyd G. Scott, R.Ph., served as Drug Information Analyst until November 1973, followed by Thomas Gingrich, R.Ph., until April 1975, followed by Anne W. Eggers, R.Ph., M.S., until September 1978. Elaine Euchner, R.Ph., also served as Drug Information Analyst from April 1978 until July 1978; and William Best, R.Ph., Served from July 1978 until September 1978. George Kerner, M.S., served as Consumer Safety Officer from February 1975 until July 1977.

The following individuals consulted with the Panel to offer data in their areas of scientific expertise with OTC vaginal contraceptives and other vaginal drug products:

Nancy Chasen
Robert Choate
John C. Culter, M.D.
Paul A. Fehn, Ph.D.
Matthew Freund, M.D.
Leonard J. Goldwater, M.D.
Forrest C. Greenslade, Ph.D.
Stephen G. Hoag, Ph.D.
Roger Homm, B.S.
Marjorie Horning, Ph.D.
Margaret F. Jones, M.S., M.A.
Ruth Kirschstein, M.D.
S. Robert Kohn, Ph.D.
Eric Kunnas
Donald McNellis, Ph.D.
William Masters, M.D.
Nathan Millman, Ph.D.
John Mothersell
Roger Schnaare, Ph.D.
Daniel Siegel, Ph.D.
Charles Westoff, Ph.D.

The Panel was first convened on August 2, 1973, in an organizational meeting. Working meetings were held on September 28 and 29, October 19 and 20, and November 18 and 19, 1973; January 13 and 14, February 8 and 9, March 8 and 9, March 29 and 30, May 9 and 10, June 6 and 7, July 18 and 19, September 20 and 21, November 8 and 9, and December 16 and 17, 1974; January 23 and 24, February 7 and 8, March 14 and 15, April 27 and 28, June 23 and 24, July 24 and 25, September 18 and 19, November 7 and 8, and December 11 and 12, 1975; February 26 and 27, April 22, 23, and 24, July 22 and 23, August 24 and 25, October 8 and 9, November 19 and 20, and December 16 and 17, 1976; January 14 and 15, March 11 and 12, May 20 and 21, June 22 and 23, July 27 and 28, October 1 and 2, November 4 and 5, and December 15 and 16, 1977; February 3 and 4, March 13 and 14, April 28 and 29, May 19 and 20, June 8 and 9, July 10 and 11, July 31 and August 1 and 2, September 28 and 29, and December 7, 8, and 9, 1978.

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

No person who so requested was denied an opportunity to appear before the Panel.

On January 23 and 24, 1975, the Panel held a symposium concerning scientific aspects of reproduction and fertility control and invited the following participants:

Gerald Bernstein, M.D., Ph.D.
Richard Blandau, M.D., Ph.D.
Forrest C. Greenslade, Ph.D.
Kurt Hirschhorn, M.D.
Sheldon J. Segal, Ph.D.
Thomas Shepard, M.D.
Richard Stambaugh, Ph.D.
Robert Staples, Ph.D.

A symposium on effectiveness of vaginal contraceptives was held on April 28 and 29, 1978, and included the following participants:

William C. Andrews, M.D.
Gary Berger, M.D.
Gerald Bernstein, M.D., Ph.D.
Ron Gray, M.D.
Bernard Greenberg, M.D.
Michelle Harrison, M.D.
Edna Johnson
Philip Kestelman
Jane Menken, Ph.D.
Harold Nash, Ph.D.
Howard Ory, M.D.
Samuel Pasquale, M.D.
Allan Rosenfield, M.D.
Christopher Tietze, M.D.
Ilene Wolcott

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent information submitted through December 8, 1978, in arriving at its conclusion and recommendations.

In this document the Panel presents its review and proposed monograph for OTC vaginal contraceptive drug products. That portion of its review which deals with other vaginal drug products will be presented in a future issue of the Federal Register.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel's findings with respect to OTC vaginal contraceptive drug products are set out in three categories:

Category I. Conditions under which OTC vaginal contraceptive drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC vaginal contraceptive drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

Table of Contents for the Preamble

I. Submission of Data and Information
A. Submissions by Firms
B. Labeled Ingredients
C. Classification of Ingredients
D. Referenced OTC Volumes
II. General Discussion
A. Introduction
B. Data Search
C. Vaginal Anatomy and Physiology
D. Drug Evaluation for Safety
E. Drug Evaluation for Effectiveness
F. Advertising
G. Labeling
H. Combination Policy
III. Vaginal Contraceptive Drug Products
A. General Discussion
B. Category I Vaginal Contraceptive Ingredients
C. Category II Vaginal Contraceptive Ingredients
D. Category III Vaginal Contraceptive Ingredients
E. Inactive Ingredients—Comment on Safety
F. Testing Guidelines for Contraceptive safety
G. Testing Guidelines for Contraceptive Effectiveness
Proposed Monograph

I. Submission of Data and Information

A. *Submissions by Firms.*

Firms and Marketed products

Emko Co., St. Louis, Mo 63147
Emko Contraceptive Foam
Emko Pre-fil Contraceptive Foam
Because Birth Control Foam
Holland-Rantos Co., Inc., Piscataway, NJ 08854
Improved Koromex Contraceptive Jelly, Koromex-A Contraceptive Jelly, Koromex Contraceptive Cream, Koromex Contraceptive Jelly
Julius Schmid, Inc., New York, NY 10019
Finesse Contraceptive Creme-Gel Aerosol, Finesse Contraceptive Creme-Gel Measurettes
Immolin Contraceptive Vaginal Crem-Jel
Ramses Contraceptive Vaginal Jelly
Norwich Pharmacal Co., Norwich, NY 13815
Lorophyn Jelly
Lorophyn Contraceptive Suppositories
Nova Corp. of America, Cos Cob, CT 06807
Flavo-Cept Contraceptive Jelly
Ortho Pharmaceutical Corp., Raritan, NJ 08869
Ortho-Cream Contraceptive Cream
Ortho-Gynol Contraceptive Jelly
Preceptin Contraceptive Gel
Vaginal Contraceptive Foaming Tablets

In addition, the following firms, groups, or individuals provided related information:

Beecham Products, Clifton, NJ 07012
Boric acid, lactic acid
Center for Science in the Public Interest, Washington, DC 20036
Talc
Cosmetic, Toiletry and Fragrance Association, Washington, DC 20005
Talc
Ortho Research Foundation, Raritan, NJ 08869
Selected bibilography on vaginal contraception and therapeutics
Proprietary Association, Washington, DC 20006
Indication language
U.S. Borax Research Corp., Anaheim, CA 92801
Boric acid

B. *Labeled Ingredients Contained in Marketed Vaginal Contraceptive Drug Products Submitted to the Panel.*

Acacia
Alcohol
Benzethonium chloride
Boric acid
Butylparaben
De-ionized water
p-Diisobutylphenoxypolyethoxyethanol
Dodecaethylene glycol monolaurate
Glycerin
Hydroxyethylcellulose
Laureth 10S
Menfegol
Methoxypolyoxyethylene glycol 550 laurate
methylbensethonium chloride
Methylparaben
Methyl polysiloxane
Nonoxynol 9
Nonylphenoxypolyethoxyethanol
Octoxynol
Perfume
Phenylmercuric acetate
Polyoxyethylenenonylphenol
Polyethylene glycol 600 monolaurate
Preservatives
Propylparaben
Purified water
Sodium borate
Starch
Stearic acid
Tragacanth

C. *Classification of Ingredients.*

The Panel has adopted and used the following nomenclature for the ingredients reviewed in this document based on the currently accepted terminology stated in the 1978 edition of "USAN and the USP Dictionary of Drug Names." Any ingredients which do not have names established in USAN will be referred to by names recommended by FDA.

1. *Active ingredients.*

Dodecaethylene glycol monolaurate (polyethylene glycol 600 monolaurate)
Laureth 10S
Menfegol (*p*-menthanylphenyl polyoxyethylene (8.8) ether)
Mthoxypolyoxyethyleneglycol 550 laurate
Nonoxynol 9 (nonyl phenoxy polyoxyethylene ethanol, polyoxyethylenenonylphenol, nonylphenoxypolyethoxyethanol)
Octoxynol 9 (octoxynol, *p*-Diisobutylphenoxypolyethoxyethanol, polyethylene glycol of mono-iso-octyl phenyl ether)
Phenylmercuric acetate

2. *Inactive or pharmaceutically necessary ingredients.*

Acacia
Alcohol
Benzethonium chloride
Boric acid
But18paraben (butyl paraben)
De-ionized water
Glycerin
Hydroxyethylcellulose (hydroxyethyl cellulose)
Methylbenzethonium chloride
Methylparben (methyl paraben)
Methylpolysiloxane (methyl polysiloxane)
Perfume
Preservatives
Propylparaben (propyl paraben)
Purified water
Sodium borate
Starch
Stearic acid
Tragacanth

Categorization of Active Ingredients

Active ingredients	Category
Dodecaethyleneglycol monolaurate	III(E).[1]
Laureth 10S	III(E).
Menfegol	I.
Methoxypolyoxyethyleneglycol 550 laurate and nonoxynol 9.	III(E).
Nonoxynol 9	I.
Octoxynol 9	I.
Phenylmercuric acetate and Phenylmercuric nitrate.	II(S).[2]

[1] The term "(E)" refers to effectiveness considerations.
[2] The term "(S)" refers to safety considerations.

D. *Referenced OTC Volumes.*

The "OTC Volumes" cited throughout this document include submissions made by interested persons pursuant to the call-for-data notice published in the Federal Register of May 16, 1973 (38 FR 12840). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after January 12, 1981, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fisher Lane, Rockville, MD 20857.

II. General Discussion

A. Introduction

At the time of its convening, the Panel first considered its specified mandate and general objectives. It recognized that its primary concern must be the evaluation and categorization of the ingredients under its review as defined by the enabling regulation; however, it was also deeply concerned about the health of women and their offspring, the latter both during intrauterine life as well as after birth. The Panel, therefore, concluded that, as a part of its mandate, it would give special attention to the issues involved in labeling and patient instruction, effectiveness rates, delivery systems, vaginal absorption, fetal and infant damage, mutagenicity, and carcinogenicity.

The Panel believed that it was particularly important for OTC vaginal drug product labeling to explain what benefits consumers could expect from the use of such products. For example, the labeling of contraceptive agents should clearly state that the use of such products is intended for the prevention of pregnancy. Conversely, the labeling of vaginal douches should clearly reveal the probable failure of such products when used for the prevention of pregnancy.

Since proper use is important both in relation to safety and effectiveness, the Panel considered it essential that each vaginal product be accompanied by patient instructions written in a manner easily understood by the average consumer. Inasmuch as the required time that must elapse between application and intercourse can vary from product to product depending upon the dosage form (e.g., aerosol, foam, gel, suppository), the specific instructions will be determined from the data derived from the studies performed for each product.

The Panel concluded that information should be given to the consumer regarding the various levels of effectiveness which can be achieved with the use of vaginal contraceptive agents. The Panel, therefore, defined certain terminology which is essential to a discussion of effectiveness. For the purposes of this document, "method-effectiveness" is defined as that level of effectiveness which is attained in a well-controlled clinical trial utilizing highly motivated volunteers who reportedly use the method correctly with every act of sexual intercourse; "use-effectiveness" is defined as that level of effectiveness which is attained when the method is used by large numbers of subjects not all of whom follow the instructions accurately or use the method each time they have sexual relations; "extended use-effectiveness" is defined as that level of effectiveness which is attained when the method is used by large numbers of women, both correctly and incorrectly, over an extended period of time.

The Panel concluded that the term "theoretical-effectiveness" will not be used as it will not be considered synonymous with "method-effectiveness." The term "theoretical-effectiveness" implies a level of effectiveness not possible to achieve outside the laboratory.

The Panel has concluded that the contraceptive effectiveness of active ingredients cannot be considered separately from the vehicle, the method of delivery, and the actions of other ingredients in the final product. Since any one of these factors may alter the effectiveness of a Category I vaginal contraceptive ingredient, the Panel recommends that any formulation containing a Category I ingredient be subjected, before marketing, to in vitro testing for spermicidal effectiveness. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness).

The Panel also has recognized that OTC vaginal contraceptive drug products might be used by the consumer inadvertently during early pregnancy. Moreover, the products might be used during lactation. The Panel has, therefore, included considerations of fetal and infant safety in this document.

The Panel has considered mutagenic and carcinogenic potentials, a relatively new aspect of ingredient and product safety. Several ingredients under review have been subjected to in vitro and/or in vivo (animal) screening for mutagenic-carcinogenic potential.

The Panel is also concerned about the lack of information on the possible absorption of these ingredients from the vagina into the systemic circulation. It has been well established that many ingredients can be absorbed in this manner. Since the technology required to generate information in this area is now becoming available, the Panel recommends that appropriate vaginal absorption studies be conducted on all of these ingredients wherever feasible.

B. Data Search

Prior to the formation of the Panel, the FDA Medical Library conducted a literature search covering relevant American publications published between 1950 and 1973. Additionally, interested people and firms submitted data on the ingredients and products which were the charge of this Panel. After a thorough review of these data, the Panel noted that the majority of the references cited were 10 or more years old. Virtually no studies could be found which had been carried out in accordance with today's standards for the evaluation of possible teratogenic, mutagenic, carcinogenic, or toxic effects of the ingredients in these products. Finally, there was very little statistically valid information available on contraceptive method-effectiveness and almost none on use-effectiveness.

Since there was very little information in both the submissions and the FDA literature search, the Panel conducted its own independent review of the pertinent world literature and asked medical and scientific journals to run advertisements requesting additional data. However, only a limited amount of new material was obtained as a result of these efforts.

In addition, a careful review of completed and ongoing surveys of possible adverse effects of OTC vaginal contraceptive products was conducted. This review suggested that no additional relevant data had been or would be uncovered by these efforts.

The Panel requested help from FDA in order to expand the boundaries of the original literature search. A consultant, Margaret F. Jones, M.A., Biology and M.S., Library Sciences, was employed to review all relevant references on mercury in the world literature.

At the Panel's request, the industry liaison submitted in April, 1974, a listing of articles entitled "Selective Bibliography on Vaginal Contraception and Therapeutics" compiled by the Science Information Division of the Ortho Pharmaceutical Corporation. In addition, the Panel listened to testimony from interested parties and a number of invited consultants.

During the course of its deliberations, the Panel organized two symposia. The first one was held in January 1975, and brought together experts from many fields including female anatomy and physiology, genetics, toxicology, and teratology. The aim of this meeting was two-fold: to review all the current pertinent information and to look at data from ongoing research in these areas.

The second symposium was held in April 1978. The goal of this meeting was to explore four areas of concern to the Panel:

1. *Consumer concerns regarding vaginal contraceptives.* This group of presentations dealt with the need for more detailed labeling, both on the box and on the package insert, presented in language easily understood by the average consumer.

2. *Development of clinical protocols.* The problems encountered in the testing of vaginal contraceptives were outlined and recommendations for further evaluations were presented and discussed.

3. *Trends and data collection.* This portion of the program dealt with the current use of vaginal contraceptives and where and how new data on effectiveness might be generated.

4. *Study design and statistical analysis.* The participants in this section discussed the necessary components of future studies which would lead to more accurate use-effectiveness data.

The Panel invited a group of leading consumer advocates, industry representatives, basic researchers, and clinicians to meet with it to discuss these topics. Each invited guest gave a brief presentation in his or her area of expertise. The speakers, the Panel, and the members of the audience then broke into four workshops on the same four topics. The following day a summary of the deliberations and recommendations of each group was presented. In this way, valuable assistance was given to the Panel in formulating relevant portions of its report and monograph.

In summary, using every means at its disposal, the Panel attempted to gather and review all of the information available on the subjects under consideration before arriving at its conclusions and recommendations. However, the combined efforts described above served to substantiate the original observation that very little work had been done in this field in recent years.

C. Vaginal Anatomy and Physiology

1. *General considerations.* As the Panel began its deliberations, it soon became clear that the information currently available on the anatomy and physiology of the normal vagina was inadequate, particularly in the area of vaginal absorption of drugs. It, therefore, seemed appropriate for the Panel to begin by outlining what is known at the present time in order to be able to identify those areas in which additional research should be performed.

2. *Anatomy*—a. *Gross anatomy.* The adult vagina varies in length from 7 to 10 centimeters (cm); the back wall is approximately 1.5 to 2 cm longer than the front. The front vaginal wall ends at the cervix uteri where it projects into the vagina. This area is called the anterior fornix. A similar but larger space formed in the back is termed the posterior fornix.

The different areas of the vagina have varying configurations. The lower third of the undistended vagina is star-shaped. It is shapted like an "H" in its middle third and crescent shaped at the top.

The front of the vagina lies next to the bladder and the urethra, and the ureters run alongside the walls of the vagina. In the back, the upper three fourths are in close proximity to the rectum. The lower fourth of the vagina lies next to the anal canal. The supports of the vagina are large bands of tissue that radiate from the lateral pelvic walls to the cervix at the junction of the vagina with the uterus (Ref. 1).

b. *Blood supply*—(1) *Aterial blood supply.* The blood supply of the vagina originates with the uterine arteries which give off descending branches called the cervicovaginal arteries. Several smaller branches go to the cervix, the most prominent joining with similar vessels coming from the opposite side to form the coronary artery of the cervix. The vaginal arteries divide on the lateral aspect of the vagina and send branches to both the anterior and posterior surfaces of that organ. Branches of the internal iliacs, known as arteriovaginalis, may also supply this region. When this occurs, the inferior vesical artery supplies the middle half of the vagina.

The lower half of the vagina is supplied by branches of the middle hemorrhoidal arteries. The various branches of the arteries supplying the right and left sides of the vagina meet in the midline on the anterior as well as the posterior surfaces to form a single median vessel, the azygous artery of the vagina. The dorsal artery of the clitoris originates from the internal pudendal artery and joins with the vaginal blood supply (Ref. 1).

(2) *Venous drainage.* The venous drainage of the vagina consists of a series of plexuses. In the lower portion of the vagina the drainage commences along the urethra and empties into the perineal veins and the dorsal vein of the clitoris, as well as into the middle hemorrhoidal venous plexus. Most of the venous blood then flows in the internal pudendal veins which communicate directly with the hypogastric veins on the same side (Ref. 1).

c. *Lymphatics.* The lymphatics of the vagina consist of three major groups that are closely related to those of the adjoinging organs. The superior group of vaginal lymphatics joins those of the cervix, while the middle group courses along the vaginal arteries toward their origin and terminates in the medial chain of the external iliac nodes. This middle group, which drains the greater part of the vagina, terminates in the hypogastric node at the point of origin of the vaginal artery. Part of the third or inferior group of lymphatics courses upward to join with the middle group and terminates in the pelvic nodes. The remaining channels enter the vulva and drain into the inguinal nodes (Ref. 1).

d. *Innervation.* The superior, middle, and inferior hypogastric plexuses make up the nerve supply of the pelvis. There are very few pain receptor nerve endings in the vagina, although receptors related to temperature are present (Ref. 1).

e. *Microscopic anatomy.* The microscopic anatomy of the mucosa of the vagina is unique both in its structure and in its cyclic response to hormonal stimulation. The epithelium is of a thick (0.15 to 0.2 mm) uncornified stratified squamous type, lacking any glands. A submucosal layer is present which is loose in structure. The larger blood vessels and lymphatics course through

this layer, as well as the few nerves that supply the epithelium.

The muscles of the vagina are continuous with the muscles of the uterus. The outer layer of muscle of the vagina is longitudinal. The inner muscle layer of the vagina is less well-developed and runs in a spiral-like course. The outer layer of the vagina is made up of loose connective tissue and contains the blood vessels, nerves, and lymphatics.

3. *Physiology*—a. *Hormonal influences.* In childhood, the vaginal epithelium is not well-developed. However, with the onset of puberty, the vaginal walls begin to assume their adult appearance in response to the sex hormones. Under the influence of estrogen, the vaginal epithelium differentiates into stratified squamous epithelium consisting of the basal, parabasal, intermediate, and superficial layers. The superficial layer is shed and becomes part of the total vaginal secretion. Maturation of the vaginal epithelium does not occur in the absence of estrogen. Under those circumstances only basal and parabasal cells are seen. This pattern is considered to be atrophic and is found before puberty and after the menopause in the absence of continued stimulation by endogenous and/or exogenous estrogen. In sexually mature women, the presence of unopposed estrogen at midcycle may be indicated in the vaginal smear by the number of superficial cells, a high eosinophilic index (Ref. 2), the presence of spinnbarkheit, and a positive fern pattern in the cervical mucus.

Hormonal influences also play a role in the alteration of cervical mucus. The cervical mucus consists of two main components. The first component is a gel-forming "mucin" composed of macromolecules of glycoproteins condensed into micelles, the arrangement of which varies with the endocrine state. Estrogen stimulates the production of large amounts of thin, watery, alkaline, acellular cervical mucus which demonstrates ferning activity, spinnbarkheit, and sperm receptivity. Progesterone is produced during the luteal phase of the menstrual cycle. It inhibits the secretory activity of the cervical epithelium and produces scanty, viscous, cellular mucus with low spinnbarkheit and an absence of ferning. Spermatozoa have difficulty in penetrating this luteal-phase cervical mucus.

The second component, the cervical plasma between the meshes of the gel, is made up primarily of proteins, salts, and water. At midcyle, when unopposed estrogen is present, the plasma between the micelles has a low viscosity. During this time, the parallel arrangement of the micelles permits the sperm to enter the uterus.

b. *Vaginal secretion.* The Panel is using the term "vaginal secretion" to refer to the fluids formed by the uterus and tubes, to which are added desquamated cells from the superficial layers of the vaginal epithelium, blood, microbial flora, debris from bacterial and cellular cytolysis, and fermentation products occurring primarily as a result of the action of microorganisms on the vaginal epithelial cells (Ref. 3). These, together with other components (e.g., seminal fluid, shreds of fiber from tampons, etc.), form the vaginal secretion as herein defined.

c. *Genital microflora.* The indigenous flora of the vagina produce a constantly changing ecological system. The composition of this ecosystem is affected by many factors, the most important being the sex hormones as evidenced by the sparse microflora found in the atrophic state.

The following groups of organisms have been identified as the major components of the indigenous microflora of the female genital tract (Ref. 4):

Cocci
Coliform
Diphtheroids
Facultative anaerobes
Fungi (including *Candida albicans)*
Lactobacilli (e.g., Doederlein's bacillus)
Micrococcaceae
Trichomonas

It has long been considered that the several strains of lactobacilli are the organisms which produce the normal vaginal environment by maintaining the acid pH of the vagina. In certain pathological states of the vagina, some of the microorganisms overgrow and produce symptoms of discharge, vaginal and perineal irritation, and odor. Other organisms (e.g., *Hemophilus*) which are always considered as pathogens may produce the same symptoms. Because of the wide variety of microorganisms that normally inhabit the vagina, it is difficult to determine which of the microorganisms present may be responsible for pathological conditions. It is also important to know in what relative numbers they need to be present and their relationship to other microorganisms before it can be said that a woman has vaginitis caused by a particular microorganism. This complexity causes problems in medical diagnosis and compounds the difficulty of determining whether a particular therapy is effective in treating vaginitis.

d. *pH of vaginal secretions.* The normal range of vaginal pH is 3.0 to 5.5. There are minor variations in pH of vaginal secretions during the various phases of the menstrual cycle, the secretions becoming less acidic around the time of ovulation and during menstruation. The acidity of the vagina is maintained by the action of lactic acid-producing Doederlein's bacillus on desquamated vaginal epithelial cells which contain glycogen. The glycogen content and the sloughing and renewal of vaginal cells are regulated by ovarian hormones.

The moist acidic milieu of the vagina is essential for the growth of the normal vaginal flora including the Doederlein's bacilli. At the same time the acidic environment provides some measure of protection against overgrowth and invasion by pathogenic microorganisms and against their progression upward through the genital tract. The physiologic protective mechanisms, resulting from hormonal stimulation and the action of Doederlein's bacilli to maintain an acid pH, are optimal during the reproductive era (Ref. 5).

e. *Vaginal odors.* Vaginal secretions have a characteristic odor which varies during the menstrual cycle for any individual woman. In a healthy state the vaginal odor in the nonmenstruating female is slightly acidic. The individual characteristic vaginal odor is frequently changed by alterations of the normal vaginal flora, or by invasion of the vagina by pathogens (e.g., *Hemophilus*). The are no criteria as to what number or type of microorganisms will result in the production of an "unpleasant" vaginal odor, but infection with certain microorganisms produces characteristic odors.

With gas chromatography it is now possible to separate and identify certain components of vaginal contents on the basis of vapor pressures and solubilities (Ref. 6). More than 30 fractions have been obtained from human vaginal secretions on liquid gas chromatography; some of these fractions are odoriferous. Certain short-chain aliphatic acids known as pheromones are found in vaginal secretions. These are produced at the time of ovulation in primates and thus play an important role in determining sexual behavior. It has been postulated that pheromones may play a similar role in humans.

4. *Vaginal absorption of drugs.* In 1918, Macht summarized the human and animal data on the vaginal absorption of drugs (Ref. 7). Since drug assay methods at that time were still quite crude, evidence of vaginal absorption was determined mainly by the production of pharmacological and/or toxicological effects of drugs administered intravaginally. Thus, vomiting was induced with morphine; salivation, with pilocarpine; certain characteristic

cardiovascular effects, with atropine; and violent diarrhea and death, with mercuric chloride.

A number of studies evaluated the amount of systemic absorption of antibacterial agents after their intravaginal administration to human subjects. Rock (Ref. 8) reported the appearance of therapeutic blood levels of penicillin within 1 hour after 100,000 units of penicillin calcium in cocoa butter suppositories were placed in the vagina; these levels were maintained for from 4 to 6 hours. Absorption proceeded more slowly around the middle of the menstrual cycle and was even slower in pregnant females.

The feasibility of administering steroids for contraceptive purposes by absorption from the vagina was first studied by Mishell et al. This group reported that chlormadinone acetate (CMA) was absorbed from silastic vaginal rings (Ref. 9).

Radioactive tracer techniques have significantly improved the precision and accuracy of the evaluation of the vaginal absorption of drugs in both humans and animals. For example, the use of radioactive mercury greatly facilitated the studies on the degree of vaginal absorption of phenylmercuric acetate (PMA) in animals. (See part III. paragraph C.2.a. below—Phenylmercuric acetate.)

In summary, it appears that: (a) Certain drugs undergo systemic absorption when administered intravaginally; (b) the amount of absorption varies with the type of vehicle used for administration; (c) a compound can be absorbed in amounts which produce pharmacological effects, including effects on the fetus (Ref. 10); (d) drugs enter the systemic circulation from the vagina and exert their effects based upon the blood level attained (Ref. 11); (e) the metabolism and distribution of drugs absorbed from the vagina may differ substantially from that resulting from their oral administration; (f) there may be considerable variation in the degree of absorption of a given dose of a drug depending on the characteristics of the individual woman being treated (e.g., age, hormonal balance, the stage of menstrual cycle, the presence or absence of pregnancy, and multiple other factors); and (g) many of the fundamental principles concerning the kinetics of absorption from the vagina and the various factors involved are not known and should be subjects for future investigation.

References

(1) Kranz, K. E., "The Gross and Microscopic Anatomy of a Human Vagina," *Annals of the New York Academy of Sciences*, 83:89–102, 1959.

(2) Gardner, W. U., "Sensitivity of the Vagina to Estrogen: Genetic and Transmitted Differences," *Annals of the New York Academy of Sciences*, 83:145–160, 1959.

(3) Fishman, W. H., and G. W. Mitchell, Jr., "Studies on Vaginal Enzymology," *Annals of the New York Academy of Sciences*, 83:105–121, 1959.

(4) Galask, R. P., B. Larsen, and M. J. Ohm, "Vaginal Flora and Its Role in Disease Entities," *Clinical Obstetrics and Gynecology*, 19:61–81, 1976.

(5) Hunter, C. A., Jr., R. Long, and R. R. Schumacher, "A Study of Doderlein's Vaginal Bacillus," *Annals of the New York Academy of Sciences*, 83:217–227, 1959.

(6) Keith, L., A. Dravnieks, and B. K. Krotoszynski, "Vaginal Odor Chromatographic Assays; Changes Caused by Douche or Suppository—Preliminary Data," *The Chicago Medical School Quarterly*, 30:1–11, 1970.

(7) Macht, E. I., "On the Absorption of Drugs and Poisons Through the Vagina," *Journal of Pharmacology and Pathology*, 10:509–522, 1918.

(8) Rock, J., R. H. Barker, and W. B. Bacon, "Vaginal Absorption of Penicillin," *Science*, 105:13, 1947.

(9) Mishell, D. R., Jr., et al., "Contraception by Means of a Silastic Vaginal Ring Impregnated With Medroxy-progesterone Acetate," *American Journal of Obstetrics and Gynecology*, 107:100–107, 1970.

(10) Shimizu, G., "Experimental Studies on the Internal Distribution and the Effects on the Fetus of Phenylmercuric Acetate Vaginal Tablets. I. Blood Concentration and Excretion in Feces and Urine, and II. Distribution of Phenylmercuric Acetate in the Organs and Its Transplacental Passage into the Fetus," *Nippon Sanka Fujinka Gakkai Zasshi*, 22:350–358 and 1209–1215, 1970.

(11) Karmin, S. M., "Obstetric and Gynecological Uses of Prostaglandin," MTP Press, 1976.

D. Drug Evaluation for Safety

The Panel reviewed both OTC vaginal contraceptives and other vaginal drug products. Although that portion of its review which deals with other vaginal drug products will be published in a future issue of the Federal Register, this section on safety testing is the same for both classes of drug products. The Panel believes that since all of the ingredients under its review are applied to the vagina, the guidelines for safety testing are identical no matter what the ingredient or vehicle or the drug's intended pharmacological purpose.

1. *General discussion.* A number of studies have shown that the vagina has the ability to absorb or transport certain materials placed within it. Rock, Barker, and Bacon (Ref. 1) have found that penicillin, formulated in cocoa butter suppositories, is easily absorbed from the vagina, ordinarily providing therapeutic blood levels for 4 to 6 hours. More recent studies have further demonstrated the absorption of compounds from the vagina. Beck, Boots, and Stevens (Ref. 2) have found that bovine milk immunoglobulin is absorbed from the vagina of the baboon, thus indicating that macromolecular weight proteins are capable of passing from the vagina to the blood stream. Rigg et al. (Ref. 3) have discovered that the intravaginal administration of micronized 17-beta-estradiol results in rapid and sustained absorption of the hormone in humans. In the light of these and other studies, the Panel concludes that it is important to study vaginal absorption when evaluating the safety of any vaginal preparation. (See part II. paragraph C.4. above—Vaginal absorption of drugs.) The investigator must be concerned with the safety of the nonpregnant or pregnant user, the conceptus through the embryonic stage, the fetus up to the moment of birth, and the neonate if any ingredient is found to be transmitted through breast milk.

When the Panel attempted to evaluate the safety of ingredients found in OTC vaginal drug products used during the period from fertilization through organogenesis (10 weeks after conception), it found that the available pertinent literature on most of the ingredients under review was extremely scanty. The literature on teratology is replete with reports on studies dealing with the damaging effects of abnormal diets, trypan blue, antimetabolites, hormones, radiation, thalidomide, antibiotics, mercury, and other substances. The list of known teratogens is long, indeed, but the Panel found little information regarding the majority of the ingredients under its review. Additionally, the Panel found that few studies have been concerned with whether or not those ingredients cause other adverse reproductive effects such as infertility and spontaneous abortion.

There is evidence to suggest that the period of greatest susceptibility to teratogens may start as early as the 11th or 12th day after fertilization in the human (Ref. 1). Inasmuch as this is a period during which pregnancy may not be suspected, the Panel recognizes that substances potentially toxic to the conceptus may be inadvertently used during this time. It has been shown that the fetal kidney does not begin to function until about the 14th week after conception and then only imperfectly. Therefore, the question arises of how the fetus handles those chemicals ordinarily excreted through the urine. It is also known that the fetal kidney does not clear drugs as rapidly as the mature

organ (Ref. 2). In addition, the incomplete development of enzyme systems important in the detoxification of drugs further contributes to the inability of the fetus to metabolize or eliminate drugs through the ordinary processes (Ref. 3). It is only shortly before birth that enyzme activity develops to a significant level; even during the first month of life, enzymes are relatively ineffectual as detoxicants. Although there is a considerable clearance of chemicals by the placenta and maternal circulation, the potential still exists for accumulation of toxic substances in the fetal compartment.

Aside from these physiological considerations, the safe use of a drug is affected by the size of the dose, maternal concentrations and clearances, the integrity of the placental-fetal-amnion circulation exchange, the stage of development of the conceptus and the possible interaction with other substances. Some substances have received intensive study, e.g., mercury, thalidomide, hexachlorophene, camphor, antimetabolites, and certain antibiotics and chemotherapeutic agents. However, the etiology of the substantial number of spontaneously aborted or blighted ova observed in early pregnancy remains to be identified. The Panel is concerned that certain of these events may be the result of exposure to supposedly benign substances such as OTC drug products. It, therefore, recommends that any ingredients assigned to Category III for the above reasons be studied in appropriate animal models to determine whether or not they produce adverse effects on the conceptus at any of the three stages of development, and that quantitative assays be carried out on breast milk where indicated.

Many of the ingredients under review have been widely used for a number of years with few reported adverse effects upon women. The Panel is aware of the difficulties that would be involved in obtaining data on the possible rare or hitherto unrecognized side effects of these ingredients (e.g., carcinogenicity) Moreover, most studies on the use of these ingredients have not utilized patient samples of sufficient size, nor have they been of sufficient duration to allow statistically valid determination of these risks.

The Panel's primary concern regarding safety is related to the use of these ingredients during embryogenesis, pregnancy, and lactation and to their possible potential for fetal and neonatal damage. It is important to note that with the exception of mercury compounds, there is no evidence to date which would suggest that these ingredients under consideration have produced any such damage in the past. However, there are virtually no data on the possible adverse effects upon a fetus at all stages of development. The Panel, therefore, urges that retrospective studies be carried out (under the aegis of either public or private agencies) in order to determine whether or not these ingredients may play a role in producing fetal anomalies.

Certain of the additional studies which the Panel recommends must be conducted first in animals and then in humans. Obviously, testing for acute or subacute (chronic) toxicity can be permitted on animals only. However, local toxic effects (e.g., vaginal irritation) should be ascertained initially on animals and subsequently on humans if negative results are obtained in the animal tests.

The Panel has established guidelines for those tests which it believes to be absolutely necessary for ingredients which have been placed in Category III. It is not the intent of the Panel to require that every Category III ingredient undergo all of the tests outlined below. Rather, the scope of the investigation of the test ingredient would be commensurate with its potential biological hazards as determined by preliminary studies on acute and chronic toxicity. Thus, the investigator is allowed a certain flexibility in planning the protocols with the proviso that the outlined objectives be fulfilled in each instance. The investigator should consult with FDA in outlining these protocols. The Panel recommends that when new information in the future suggests that any ingredient currently in use may produce previously unsuspected maternal or fetal damage, the relevant tests as described below should be required. Finally, all testing procedures must be carried out at a high scientific level which reflects the current state of the art.

2. *Toxicity studies*—a. *Acute*—(1) *Rationale.* A thorough investigation of the acute toxicity of the test ingredient is essential so that potential hazards may be assessed in order to determine the extent of subsequent investigations.

(2) *Animal species.* The tests should be conducted in the rat or mouse.

(3) *Data sought.* The tests should determine the lethal dose for 50 percent of the subjects (LD_{50}). The intravenous route of administration is appropriate for water-soluble ingredients. The intraperitoneal or other parenteral routes are appropriate for water-insoluble or particulate ingredients. The oral route is not recommended because of the highly variable degree of absorption.

b. *Subacute and/or chronic*—(1) *Rationale.* Since virtually all of the ingredients under review are found in products frequently used over an extended period of time, it is essential to look for chronic toxicity.

(2) *Animal species.* The tests should be conducted in one nonrodent species with 12 months of exposure and one rodent species with 24 months of exposure.

(3) *Data sought.* The following should be observed and recorded: Body weight, food consumption, and behavior. Laboratory evaluation should include hemogram, blood coagulation, liver and kidney function tests, and metabolic tests. Gross and microscopic examination of tissues (including liver, kidney, brain, and reproductive organs) should be conducted along with any other appropriate tests.

c. *Local toxicity studies.* Local toxic effects should be ascertained initially on animals and subsequently on humans if negative results are obtained in the animal tests.

(1) *Rationale.* Inasmuch as these products may be used frequently and over an extended period of time, their potential for local irritation and sensitization must be determined.

(2) *Animal species.* The rabbit provides an excellent, albeit highly sensitive, animal model for testing agents for potential vaginal irritation. Up to the present time no reliable animal tests have been developed with screen for vaginal sensitization. An intradermal test on the guinea pig or a cutaneous test (modified Landsteiner) would be appropriate for the preliminary screening and identification of potentially strong sensitizing ingredients.

(3) *Human testing.* The final and only totally valid tests for irritation and sensitization would be those carried out in human subjects.

(4) *Data sought.* Certain classes of vaginal ingredients because of their known pharmacologic actions are particularly suspect in this regard. Routine clinical testing of agents containing detergents or surfactants must be carried out in women under conditions of normal use in order to determine the potential for vaginal and skin irritation. Contract dermatitis, which has been shown to result on occasion from the use of soaps of synthetic surfactants, is an irritation which ranges in severity from mild skin roughening and scaling to actual ulceration.

3. *Metabolic studies*—a. *In vivo*—(1) *Rationale.* Any ingredient which exhibits toxicity during preliminary testing must be further evaluated

because of the possibility of vaginal absorption in significant amounts when the ingredient is used over a prolonged period of time. Accurate assessment of the cumulative potential of the ingredient may be obtained by the systemic administration of the ingredient by the intravenous or other appropriate parenteral route, including the vaginal route. This is to be followed by the determination of the urinary excretion rate and the clearance rate of the ingredient and its major metabolites from various tissues (e.g., blood, liver, kidney, brain, and reproductive organs). The turnover rate and half-life of the test ingredient may then be calculated for the entire body and for various compartments (organs or tissues). Such data would allow prediction of the rate of accumulation of the toxic ingredient on repeated or continuous exposure at various dose levels. The results from the animal studies might then be cautiously extrapolated to chronic human usauge.

(2) *Animal species.* The tests should be conducted in one rodent and one nonrodent species.

(3) *Data sought.* The ingredient and its major metabolites in the various tissues should be chemically analyzed at appropriate time intervals following the systemic administration; clearance rate, turnover-time, and half-life of the test ingredient should be calculated.

B *In vitro.* The proven potential for the toxicity of a given ingredient will make it necessary to investigate the biochemical mechanisms underlying its mode of action. Such data may be obtained form in vitro studies, e.g., determination of the effect of the test ingredient on critical enzyme systems in surviving tissue slices, examination of cellular membrane structure and cell division, etc. Results from these tests would allow further assessment of the potential hazards of the test ingredient.

4. *Vaginal absorption studies*—a. *Rationale.* Although an ingredient used in a vaginal preparation may prove to be toxic when administered systemically, it may present no hazard if it is not absorbed when applied intravaginally.

b. *Animal species.* At least two species of animals that are not closely related phylogenetically should be tested. Pregnant animals as well as nonpregnant animals at different stages of the estrous cycle should be studied following single and repeated applications of the ingredient. Rats and sheep are excellent animal models for the study of vaginal absorption. Care must be taken in the selection of animal species to be sure that the dosage form of the test preparation is appropriately retained within the vagina. Sheep are particularly useful in such studies because the gross anatomy of the vagina and the body weight of sheep are similar to those of the human. Rats and rabbits can also be used.

However, certain solid dosage forms are frequently expelled by reflex from the vagina of the rabbit and other species. For instance, dogs expel by reflex a variety of dosage forms, e.g., gels and creams, from the vagina. Liquid formulations may be vaginally applied in most of the above species provided that retention of the formulation for long periods of time is not critical to the experimental design. With these considerations in mind, studies entailing single vaginal applications would be appropriate, e.g., in the rabbit and dog. Nonhuman primates (e.g., rhesus monkey and baboon) would be eminently suitable, but they would need to be restrained so that they could not remove the inserted materials.

c. *Human testing.* Finally, determinations must also be made of the concentration of the test ingredient and its major metabolites in the blood and urine of treated women.

d. *Data sought.* The degree and rate of vaginal absorption of the test ingredient in an appropriate vehicle can be determined by measuring the levels of the ingredient and its major metabolites in blood, urine, and certain body tissues (e.g., liver, kidney, brain, and reproductive organs). The levels thus attained can then be compared with those observed when the ingredient is administered systemically to animals at dose levels which have previously been found to induce toxic or embryotoxic effects. The potential hazards of the vaginal application of the test ingredient and the margin of safety may then be evaluated with respect to the human fetus and the pregnant and nonpregnant woman. Such tests are particularly important since the fetus and the neonate are highly susceptible to the toxic action of chemical pollutants and drugs.

Other components of the vaginal preparation, such as the vehicle, may appreciably affect the rate of vaginal absorption of both the test ingredient itself and of the test ingredient in the final product formulation. Such factors need to be taken into account when studying vaginal absorption rates.

5. *Mutagenicity and carcinogenicity studies.* Tests for mutagenicity and carcinogenicity will be required for certain ingredients about which the Panel has expressed particular concern, even though these ingredients have been in use for a long time without apparent adverse effects.

a. *Background.* Fetal damage may occur if vaginal preparations having carcinogenic potential are used during early pregnancy. Carcinogenic effects may occur in perinatal or adult life. That transplacental carcinogenesis can occur has been amply demonstrated in animal studies with various classes of carcinogenic agents (Ref. 4); similarly, it has also been demonstrated in the human with the synthetic estrogen, diethylstilbestrol (Ref. 5). However, the carcinogenic agents were not administered by the vaginal route in these studies. Nevertheless, it has been established (See part II paragraph C.4. above—Vaginal absorption of drugs) that in many instances chemicals absorbed from the vagina enter the maternal circulation and are transported across the placenta into the fetal compartment. The fetus (and the newborn) are especially susceptible to the action of chemical pollutants, particularly to carcinogenic compounds. And there seems to be little doubt that during fetal development and early infancy some tissues are more susceptible to certain carcinogens than they are later on in life (Ref. 6). For example, tumors occur in the offspring following treatment of pregnant rats with certain nitrosamides at a dose level that does not produce tumors in the mother.

Safety evaluation of vaginal preparations should take into consideration the earliest stages of pregnancy, e.g., the effects of drugs on the blastocyst (Ref. 7) and the passage of drugs and other chemicals into the uterine fluids and preimplantation blastocyst (Ref. 8). There is little known at present on the effect of carcinogens on the blastocyst.

The Panel is also concerned about the infant who is breast fed by a mother who uses vaginal preparations because an unsuspected carcinogenic agent may be absorbed from the vagina, enter the systemic circulation, and be excreted in the milk. Drugs administered to mothers often appear in the milk (Ref. 9). Indeed, certain drugs (e.g., alcohol, barbiturates, thiouracil, iodine, nicotine from smoke, etc.) pass readily into the milk and, when taken in excessive amounts by the mother, can adversely affect the infant (Ref. 9). Moreover, carcinogenesis via mother's milk has been demonstrated in animal experiments. Pulmonary tumors were induced in mice that were suckled by mothers who received urethan during lactation (Ref. 10). Tumor induction was also achieved with aliphatic nitrosamines in similar studies with the Syrian golden hamster (Ref. 11).

The woman herself must be evaluated, although she may be less susceptible to the action of carcinogenic

agents than is the fetus or infant. On the other hand, she runs the risk of prolonged exposure from the continued use of the deleterious vaginal preparation.

b. *Tests for mutagenicity/carcinogenicity.* The ultimate and most reliable test of carcinogenicity requires exposure of the test animal to the suspected carcinogen under conditions simulating human exposure (Ref. 12 and 13). The vaginal route of administration would be most appropriate in the opinion of the Panel. Exposure of the test animal, e.g., the rat, should be made during nonpregnancy, early pregnancy, and lactation. The adult, the fetus, and the offspring should be examined for tumor formation. Lifespan studies would be required, or 2-year studies if rats were used.

Alternatives to the lengthy and costly assays for carcinogenic activity outlined above may be sought in short-term predictive tests. The host-mediated in vivo and in vitro combination assay developed by DiPaolo et al. (Ref. 14) at the National Cancer Institute seems particularly relevant to the conditions of human exposure. In this assay the chemical to be tested is injected intraperitoneally into a pregnant animal such as the hamster. Embryo cells from the pregnant hamster are cultured; the primary and secondary cultures are composed predominantly of diploid fibroblasts. The appearance of morphological transformations in these cells is considered to be predictive of the chemical's carcinogenic activity. An in vitro assay procedure similar in principle has been developed by other investigators (Refs. 15, 16, and 17). Cultured embryo cells from untreated pregnant hamsters are exposed directly to the chemical to be tested observed for morphological transformation. DiPaolo et al. (Ref. 18) have shown that the inoculation of hamsters with cells of the transformed colonies results in tumors.

Pienta et al. (Ref. 19) have identified factors which affect the reproducibility of the hamster embryo system. They noted that certain carcinogens need to be metabolized to an active form; therefore, an activation system must be added to the embryo cells in order for the assay to be valid. These and other mammalian cell transformation systems for the identification of potential carcinogens have been reviewed by Krahn (Ref. 20) who concluded that a positive response in the systems currently available indicates that the chemical is potentially hazardous and that testing in more sophisticated bioassays is necessary. The cell transformation systems, on further development and refinement, may be especially accurate predictors of the carcinogenic potential of chemicals.

Certain other test procedures are used to identify potential mutagens. It should be noted that not all mutagens have been demonstrated to be carcinogens, although most carcinogens are mutagens.

These prescreening tests are attractive because they are rapid, relatively inexpensive, and reasonably easy to perform. The majority of the tests use as end points some form of genetic damage (Ref. 21). The end points include, first, measurement of mutations at individual loci as in the bacterial mutagenic assays, e.g., the Ames test (Ref. 22), and in certain mammalian cell culture systems, e.g., Chinese hamster ovary (CHO) cells (Ref. 23); second, measurement of DNA damage and repair; and third, measurement of clastogenic events including deletions, breakage, and repair of chromosomal material.

The results obtained in the bacterial mutagenesis assays must be interpreted with caution since there are many areas of potential variability in conducting these assays (Ref. 24). Several carcinogens (e.g., diethylstilbestrol and saccharin) found to be negative in the Ames test were detected in the mouse lymphoma mutagenicity assay (Ref. 25).

There are several quantitiative assays for gene locus mutation which use mammalian cell culture systems (Ref. 26). These systems include CHO cells, hamster lung V-79 cells, mouse lymphoma cells, and human fibroblasts and lymphoblasts. The principal steps in the assay procedure are, first, exposure of the cells to a known concentration of the test compound for a fixed period of time; second, incubation to allow fixation of the mutagenic lesion and expression of mutant phenotype; and third, counting the mutant colonies after they grow to macroscopic size.

In vivo tests of mutagenicity in the mouse (Ref. 21) include procedures which measure somatic damage and germ cell damage. Somatic damage is sought in the micronucleus test, in studies of somatic cell cytogenetics and sister chromatid exchange, and in the recessive coat color spot test. Germ cell damage is sought in the dominant-lethal test, heritable translocation assay, studies of sperm morphology, and the germ cell specific locus test. The dominant lethal test might be considered to be irrelevant since by definition dominant lethals pose no general hazard to future generations. However, fetal death or loss by miscarriage, as determined in this test, is not irrelevant to humans and must be considered in evaluating risk to humans.

The Panel has perused the detailed reports of the proceedings of national conferences (Refs. 12 and 13) on mutagenesis and carcinogenesis testing of chemicals, and has consulted with experts in this area, particularly with reference to vaginal preparations. The Panel shares in the consensus, expressed at the most recent conference on strategies for short-term testing for mutagenesis/carcinogenesis, that a battery approach to testing should be followed (Ref. 13). In this approach, the compound is subjected to several tests. The Panel recommends that at least three of the following types of tests be used in evaluating a vaginal preparation: Bacterial mutagenesis, cultured mammalian cell mutagenesis, cell transformation, DNA damage and repair, and whole animal mutagenesis or chromosomal damage. At least two mammalian cell culture systems that have proved to be useful are described in the review (Ref. 26) briefly discussed above. No single test can be considered in making a reliable final assessment of potential carcinogenicity since all tests may be expected to yield a fraction of false-positive and false-negative results. The Panel recognizes that these test systems are not totally predictive at the present.

6. *Maternal-fetal transfer studies—a. Rationale.* Should an ingredient produce either embryotoxic effects or chronic toxic effects in the pregnant animal, it would be important to determine the rate and magnitude of the transfer of the ingredient and its major metabolites from the maternal to the fetal compartment. These data plus those on vaginal absorption would allow further assessment of the degree of potential hazard to the fetus under experimental conditions simulating normal human usage.

b. *Animal species.* One or more animal species in which chronic systemic toxicity or embryotoxicity has been demonstrated should be studied.

c. *Human testing.* Human "discard" tissues of the products of conception (i.e., placenta, cord blood, amniotic fluid) may be analyzed for the test ingredient and its major metabolites when there is a high degree of suspicion regarding its potentially toxic nature.

d. *Data sought.* Chemical analysis for the ingredient and its major metabolites should be carried out in the conceptus (e.g., fetus, placenta, amniotic fluid) and certain maternal tissues (e.g., blood, liver, kidney, brain, and reproductive organs) following the systemic administration of the ingredient to the pregnant animal. Histochemical studies

may be required to establish the site of localization of the test ingredient in these various tissues.

7. *Teratogenicity studies*—a. *Rationale.* The test ingredient should be administered systematically (e.g., intravenously or by another appropriate parenteral route) into the maternal compartment during early pregnancy, through the period of organogenesis. It should be given in varying doses so that a threshold dose of embryotoxicity and/or teratogenicity may be established. This is the logical starting point from which to extrapolate downward in setting a safe tolerance level for drugs that may be used by pregnant women.

If the test ingredient appears to be embryotoxic, maternal and fetal levels of the ingredient and its major metabolites in blood and other tissues should be determined so that correlation of such levels with teratogenicity may be made.

b. *Animal species.* At least two species of animals that are not phylogenetically closely related should be studied, thereby increasing the chance that one species will metabolize the test compound more like the human, thus reducing the uncertainties that stem from the differences in placentation in various species.

c. *Data sought*—(1) *Conceptus.* The calculation of the number and weight of fetuses at different stages of gestation, notation of anatomical malformations, gross and microscopic examination of all tissues (fetus and placenta), and other appropriate tests should be performed.

(2) *Offspring.* The stillborn offspring should be counted and autopsied; morphological and chemical data should be ascertained. Litter size should be noted; and appropriate examinations, which include observations of neurological and behavioral aberrations (e.g., in locomotion and other coordinated motor activities), should be conducted on the living offspring.

(3) *Lactation.* The growth curve of the pups during the suckling period should be charted. Growth retardation would suggest a deleterious effect of the drug on the amount and/or nutritional quality of the milk. Chemical analysis for the test ingredient and its major metabolites in the milk will be required if there are adverse effects on the suckling pups. Surrogate pups from a dam not exposed to the test ingredient should also be used.

References

(1) Rock, J., R. H. Barker, and W. B. Bacon, "Vaginal Absorption of Penicillin," *Science,* 105:13, 1947.

(2) Beck, L. R., L. R. Boots, and V. C. Stevens, "Absorption of Antibodies from the Baboon Vagina," *Biology of Reproduction,* 13:10–16, 1975.

(3) Rigg, L. A., et al., "Efficacy of Intravaginal and Intranasal Administration of Micronized Estradiol-17-Betal," *Journal of Clinical Endocrinology and Metabolism,* 45:1261–1264, 1977.

(4) Rice, J. M., "Carcinogenesis: A Late Effect of Irreversible Toxic Damage During Development," *Environmental Health Perspectives,* 18:133–139, 1976.

(5) McLachlan, J. A., and R. L. Dixon, "Transplacental Toxicity of Diethylstilbestrol: A Special Problem in Safety Evaluation," *in* "Advances in Modern Toxicity," Edited by Mehlman, M. A., R. E. Shapiro, and H. Blumenthal, John Wiley and Sons, New York, pp. 423–448, 1976.

(6) Tomatis, L., "Inception and Duration of Tests: Report of Discussion Group No. 4," *in* "Carcinogenesis Testing of Chemicals," Edited by Golberg L., CRC Press, Cleveland, pp. 23–27, 1974.

(7) Lutwak-Mann, C., "Drugs and the Blastocyst," *in* "Fetal Pharmacology," Edited by Boreus L., Raven Press, New York, 1973.

(8) Fabro, E. S., "Passage of Drugs and Other Chemicals into the Uterine Fluids and Preimplantation Blastocyst," *in* "Fetal Pharmacology," Edited by Boeus L., Raven Press, New York, 1973.

(9) Vorherr, H., "The Breast. Morphology, Physiology and Lactation," Academic Press, New York, pp. 113–124, 1973.

(10) Normura, T., "Carcinogenesis by Urethan Via Mother's Milk and Its Enhancement of Transplacental Carcinogenesis in Mice;" *Cancer Research,* 33:1677–1683, 1973.

(11) Mohr, V., and J. Althoff, "Carcinogenic Activity of Aliphatic Nitrosamines Via the Mother's Milk in the Offspring of Syrian Golden Hamsters. *Proceedings of the Society for Experimental Biology and Medicine,* 136:1007–1009, 1971.

(12) Golberg, L., "Carcinogenesis Testing of Chemicals," CRC Press, Cleveland, pp. 1–13, 23–27, 45–50, 91–94, 95–107, 113, 114, 124, 1974.

(13) Butterworth, B. E., "Strategies for Short-term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicology Workshop," CRC Press, West Palm Beach, FL, 1978.

(14) DiPaolo, J. E., R. L. Nelson, P. J. Donovan, and C. H. Evans, "Host-mediated In Vivo-In Vitro Combination Assay System for Chemical Carcinogenesis," *Archives of Pathology,* 95:380, 1973.

(15) Berwald, Y., and L. Sachs, "In Vitro Cell Transformation with Chemical Carcinogens," *Nature* 200:1182–1184, 1963.

(16) Huberman, E., and L. Sachs, "Cell Susceptibility to Transformation and Cytotoxicity by the Carcinogenic Hydrocarbon Benzo [A] pyrene," *Proceedings of the National Academy of Sciences of the U.S.A.,* 56:1123–1129, 1966.

(17) Huberman, E., S. Salzberg, and L. Sachs, "The In Vitro Induction of an Increase in Cell Multiplication and Cellular Life Span by the Water-Soluble Carcinogen Dimethylnitrosamine," *Proceedings of the National Academy of Sciences of the U.S.A.,* 59:77–82, 1968.

(18) DiPaolo, J. A., R. L. Nelson, and P. J. Donovan, "Sarcoma—Producing Cell Lines from Clones Transformed In Vitro by Benzo [A] pyrene," *Science,* 165:917, 1969.

(19) Pienta, R. J., J. A. Polley, and W. B. Lebherz, III, "Morphological Transformation of Early Passage Golden Hamster Embryo Cells Derived from Cryopreserved Primary Cultures as a Reliable *In Vitro* Assay for Identifying Diverse Carcinogens," *International Journal of Cancer,* 19:642–655, 1977.

(20) Krahn, D. F., "The Use of Cultured Mammalian Cell Transformation Systems to Identify Potential Carcinogens, *in* "Strategies for Short-Term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicology Workshop," Edited by Butterworth, B. E., CRC Press, West Palm Beach, FL, 1978.

(21) Soares, E. R., "Genetic Aspects of Short-term Testing and an Appraisal of Some In Vivo Mammalian Test Systems," *in* "Strategies for Short-Term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicology Workshop," Edited by Butterworth, B. E., CRC Press, West Palm Beach, FL, 1978.

(22) Ames, B. N., J. McCann, and E. Yamasaki, "Methods for Detecting Carcinogens and Mutagens with Salmonella/Mammalian-Microsome Mutagenicity Test," *Mutation Research,* 31:347–364, 1975.

(23) Hsie, A. W., et al., "Utilization of a Quantitative Mammalian Cell Mutation System, CHO/HGPRT, in Experimental Mutagenesis and Genetic Toxicology," *in* "Strategies for Short-Term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicology Workshop," Edited by Butterworth, B. E., CRC Press, West Palm Beach, FL, 1978.

(24) Brusick, D. J., "Observations and Recommendations Regarding Routine Use of Bacterial Mutagenesis Assays as Indicators of Potential Chemical Carcinogens," *in* "Strategies for Short-Term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicity Workshop," Edited by Butterworth, B. E., CRC Press, West Palm Beach, FL, 1978.

(25) Clive, D., and J. Spector, "Laboratory Procedure for Assessing Specific Locus Mutations at the TK Locus in Cultured $L_{5178}Y$ Mouse Lymphoma Cells," *Mutagenesis Research,* 31:17–29, 1975.

(26) Liber, H. G., and W. G. Thilly, "A Discussion of Gene Locus Mutation Assays in Bacterial, Rodent, and Human Cells," *in* "Strategies for Short-Term Testing for Mutagens/Carcinogens. Chemical Industry Institute of Toxicity Workshops," Edited by Butterworth, B. E., CRC Press, West Palm Beach, FL, 1978.

E. Drug Evaluation for Effectiveness

Certain ingredients which the Panel considers to be safe may require studies

demonstrating effectiveness. The ingredients in the products reviewed are all applied to the vagina; for this reason the Panel believes that the guidelines for safety testing can be identical no matter what the dosage form. However, the dosage form would influence the effectiveness of the ingredients significantly. The Panel has established effectiveness testing guidelines for vaginal contraceptive drug products. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.) That portion of its review which deals with the effectiveness testing of other vaginal drug products will be published in a future issue of the Federal Register.

F. Advertising

The Panel is aware that FDA has jurisdiction over the labeling but not over the advertising of OTC drugs. Having completed its review of labeling provided in the submitted data and information, the Panel is concerned that control of labeling alone may be insufficient to assure the safe and effective use of vaginal contraceptives.

The Panel, therefore, concludes that the advertising of these products must be carefully monitored by those having the appropriate jurisdiction, and that such advertising should carry over, reflect, or incorporate the approved terms and statements found in product labeling identified in the monograph which specify the indications for use, contraindications, and appropriate warnings to the consumer.

G. Labeling

The Panel has reviewed the general and specific labeling requirements previously adopted by FDA for OTC drug products in § 201.61 (21 CFR 201.61). These regulations relate to labeling information concerning the identity of ingredients, directions for use, and general and specific warnings. The Panel has considered these regulations and concludes that, in general, these requirements are appropriate for OTC contraceptive drug products. The term "labeling," as used by the Panel, should be understood to refer to any language developed for the consumer and placed upon the carton, the container, and package inserts. Any special labeling which the Panel believes to be indicated for a particular ingredient will be discussed under that ingredient.

According to its mandate, the Panel reviewed and classified all of the terms on product labels submitted to it. Those terms classified in Category I are appropriate and may continue to be used. Terms in Category II are vague, poorly defined, or apt to promote impressions of unproven effectiveness. The Panel believed that the claims placed in Category III could be proven by scientific methods, but adequate data were not submitted to allow their approval as Category I claims. Any manufacturer who wishes to perform the necessary research to substantiate such claims may do so and submit the results to the FDA for approval.

The Panel believes that false, misleading, and unproven claims of vaginal contraceptive effectiveness should be prohibited during the interim period from the completion of the Panel's report to the agency's adoption of the monograph. To achieve this, the Panel recommends that FDA implement a review process for the evaluation of new or substantially modified labeling claims for vaginal contraceptive drug products.

After careful consideration of all labeling of OTC contraceptive drug products submitted, the Panel recommends the following general labeling guidelines:

1. *Indications for use.* The indications for use should be simply and concisely stated. They should enable the consumer to have a clear understanding of the results which can be anticipated from the use of the product. Any statement regarding the indications for use should be very specific and should be confined to the conditions for which the product is being recommended. A vaginal product may not be promoted for additional indications for use on other areas of the body unless there are sufficient valid data to support such claims.

2. *Ingredients.* The Panel concludes that it is important for the consumer to know all of the ingredients in a product because of the possibility of allergic states and idiosyncracies. For example, although aromatic compounds such as perfumes have no pharmacologic activity in vaginal drug products, these agents should be listed on the label because of their potential to sensitize. Although the Panel recognizes that current statutes require that only the active ingredients be listed, it strongly recommends that all inactive ingredients (including those which are necessary for formulation and product identification) also be listed, preferably with a statement of their quantity in metric units. The Panel further concludes that no product should be promoted on the basis of its inactive ingredients, nor should the label create a false impression of value beyond that which is scientifically valid.

3. *Principal display panel.* The Panel is aware of the current regulations regarding the principal display panel, statement of identity, and the declaration of net quantity of contents for OTC drugs and concurs with those requirements (21 CFR 201.60, 201.61, and 201.62).

4. *Effectiveness and claimed advantages.* The Panel has reviewed the claims made by the manufacturers of the various products under its purview. It concludes that certain claims for effectiveness have been made in the past without valid supporting data. Therefore, any language which promises specific health benefits which are unsubstantiated by the scientific information submitted is unacceptable and may not be used to promote the sale of these products. For example, manufacturers may not make use-effectiveness or comparative-effectiveness claims such as "better than" or "the most" unless valid scientific data have been provided upon which to base such claims. Further details on specific claims will be included in the appropriate sections of this document. In general, no claims can be made which are not specifically approved by the Panel as set forth in this document.

5. *Directions for use.* The label should consist of a clear statement of the usual effective dose. When a drug is known to have a somewhat higher than average incidence of hypersensitivity reactions, an additional warning stating this fact should be included on the label.

H. Combination Policy

The Panel has noted the regulation (21 CFR 330.10(a)(4)(iv)), which states:

> An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel has observed that a number of the vaginal preparations under its review contain multiple ingredients. However, the Panel concludes that, in general, the fewer ingredients in a combination product, the safer and more rational the therapy. It further concludes that consumers should be exposed to the fewest possible ingredients and at the lowest possible dosage consistent with a satisfactory level of effectiveness. Thus, in general, OTC products containing a single, safe and effective active ingredient are to be preferred over those

having multiple active ingredients. Such an approach is totally in accord with established medical principles and will reduce the risks of toxic, allergic, or idiosyncratic reactions, as well as the possibility of unrecognized or undesirable drug interactions. The Panel concludes that OTC combination drugs should contain only those inactive ingredients which are absolutely essential for pharmaceutical necessity and/or product identification. As previously stated, the Panel believes that a listing of these inactive ingredients and the quantities present should be included in the product labeling. (See part II. paragraph G. above—Labeling.)

The Panel concludes that combination vaginal contraceptive drug products will only be permitted if well-controlled laboratory and clinical trials demonstrate that each of the ingredients is not only safe but also makes a clear and specific contribution to the claimed effectiveness of the product.

(1.) *Category I contraceptive combinations.* With regard to the contraceptive products currently under its review, the Panel finds that there are no submissions which combine two or more Category I ingredients. If a manufacturer combines two or more Category I ingredients, the specific ingredients as well as the combination product must be subjected to laboratory and clinical testing using the recommended testing guidelines outlines elsewhere in this document. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness).

2. *Category II contraceptive combinations.* The Panel further concludes that any combination contraceptive drug formulation currently on the market which contains a Category II ingredient is to be placed in Category II. The following marketed combination formulations were reviewed by the Panel. In all cases the formulations contain at least one Category II ingredient. It is this factor that has led the Panel to conclude that these combinations are unsafe for OTC use or any use.

a. Phenylmercuric acetate and boric acid.

b. Phenylmercuric acetate, boric acid, and nonoxynol 9.

c. Phenylmercuric acetate, octoxynol 9, and sodium borate.

3. *Category III contraceptive combinations.* The Panel concludes that the marketed combination formulation containing methoxypolyoxyethylene glycol 550 laurate and nonoxynol 9 is safe for OTC use. However, insufficient data were presented to show that both surfactants make a contribution to the claimed effectiveness.

III. Vaginal Contraceptive Drug Products

A. General Discussion

1. *Contraception.* The Panel concludes that contraception is an extremely important part of general health care. It further concludes that all of the current family planning modalities, both OTC and prescription, have an essential role to play in the total contraceptive armamentarium. Thus the Panel considers that the methods of vaginal contraception under its review are important and should, insofar as possible, continue to be made available to the consumer. Nevertheless, the Panel believes that an individual consumer should consult with her physician if she is have difficulty in deciding whether or not an OTC contraceptive method is appropriate for her.

A vaginal contraceptive may be defined as a drug product which is placed in the vagina prior to intercourse for the purpose of preventing pregnancy. Such contraceptives are currently available in several different forms, e.g., jellies, creams, foams, suppositories, and foaming tablets. They are all designed to protect against pregnancy in two ways: To create a physical barrier to the entrance of spermatozoa through the cervical os into the uterus and tubes, and to provide a direct spermicidal or sperm-immobilizing action.

The Panel concurs with the criteria presented in McConnell's paper dealing with spermicidal activity (Ref. 1). These criteria are as follows. First, a spermicide must act rapidly and effectively, killing all sperm on contact, or it must render the sperm incapable of fertilization; second, it must be systemically nontoxic and nonirritating to the vaginal and penile mucosa; third, it must not have an effect on the development of the embryo or fetus; and fourth, it must be free of adverse long-term toxicity.

2. *Contraceptive effectiveness.* As stated earlier in this document, the Panel recognizes that many of the studies of safety and effectiveness contained in the submissions of data and information were carried out a number of years ago. (See part II. paragraph B. above—Data Search.) As a result, the data on effectiveness and use-effectiveness are limited and conspicuously lacking in internal consistency. Little information is available on many of the ingredients except for experience gained by common practice. Unfortunately, such information does not lend itself to scientific analysis.

Valid comparisons of method-effectiveness rates for vaginal contraceptives and other agents such as oral contraceptives or intrauterine devices (IUD) cannot be made at the present time. No well-controlled studies have been carried out using patients of similar backgrounds who receive their family planning care at the same time and in the same place. Without such studies, comparisons cannot be made with statistical validity either now or, in all probability, at any time in the future.

Similarly there are no data which would allow valid comparisons of the use-effectiveness of the various vaginal contraceptive drug products. It is also unlikely that such data will be forthcoming in the future. The low frequency of use of any individual product would preclude the acquiring of statistically valid comparative data (Ref. 2). However, it may well be feasible to develop use-effectiveness data on the various classes of vaginal contraceptive products, e.g., foams, creams, foaming tablets, etc. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.) There is fragmentary evidence available at the present time that suggests that foam preparations are somewhat more effective than the others, probably because the use of an aerosol delivery system allows for better placement of the barrier (Refs. 3 through 6).

The Panel is particularly concerned about the lack of data regarding the contraceptive effectiveness of the vaginal suppositories. Multiple factors such as proper placement, the time required for melting to release the active ingredient, and the duration of effectiveness have not been sufficiently well-documented.

3. *Surfactants as contraceptives.* Since their first recognition as spermicides 40 years ago, many surfactants (surface-active agents) have been tested for their contraceptive effectiveness. Of the three categories, ionic, nonionic, and cationic, the nonionic surfactants have been found to be the most useful in human contraception. These nonionic surfactants are the only vaginal contraceptive ingredients discussed in this document (with the exception of the mercury-containing compounds). Mann (Ref. 7) states that there is evidence to show that surfactants act directly on the constituents of the lipid-containing layer which protects the surface of the spermatozoa, producing a loss of motility and fructolytic power and a grossly altered permeability. Since the activity of sperm depends on the metabolism of fructose, the blocking of

this process effectively destroys the capacity of the organism to survive. Harvey and Stuckey showed that the surface-tension-lowering properties of the surfactants enhance their spermicidal activity (Ref. 8).

In its review of the effectiveness of vaginal contraceptive ingredients, the Panel identified several in vitro assays which have been used in the past to demonstrate the spermicidal activity of an ingredient or product. These tests, which have been reviewed by McConnell (Ref. 1), each stress different criteria. Although all of them involve the combining of sperm and spermicide, the combination is examined for different effects, e.g., the death or immobility of sperm.

In the Brown-Gamble test small amounts of sperm are mixed with dilutions of the spermicides, and the survival time of the sperm is noted. The Sander-Cramer method, which uses 0.2 mL of semen and 1.0 mL of diluted contraceptive, determines the greatest dilution of spermicide that can kill sperm instantaneously. In one of Baker's several tests, the relative effectiveness of spermicides is measured by checking the motility of the sperm at 5 and 30 minutes after 0.3 mL of sperm has been placed in various dilutions of spermicides in equal volume. Mende and Berliner devised a saturation or titration test which measures the total spermicidal power of a contraceptive. In this test, a known amount of semen, 0.1 mL, is added to 0.05 mL of spermicide, thoroughly mixed, and examined at 20 seconds. If all of the sperm are dead, an additional 0.1 mL of sperm is added, and the procedure is repeated until a sample finally shows live sperm. The International Planned Parenthood Federation Agreed Test for Total Spermicidal Power (IPPF Agreed Test) combines the principal features of Baker's tests with those of Sander and Cramer. In this test 1 mL of a spermicidal solution (diluted with 0.9-percent saline to 1 g in 11 mL) is mixed with 0.2 mL of semen. This test is used to determine at what point total sperm immobilization is accomplished.

In addition to in vitro spermicidal assays, some laboratories have recently begun to use in vivo animal models to gain information on the vaginal contraceptive potencies of experimental formulations or products (Refs. 9 and 10). Up until the present time this approach has involved the use of the rabbit and the stump-tailed macaque (*Macacca arctoides*).

A number of investigators have extended the assessment of spermicidal activity of contraceptive formulations to more closely resemble in vivo human conditions (Refs. 11 and 12). In one such approach human volunteers use a contraceptive prior to artificial insemination. Samples are then recovered from the vaginal vault, mid vagina, and lower vagina at various times after insemination to assess the ability of the contraceptive product to immobilize sperm (Ref. 11).

Human postcoital testing (Sims-Huhner) involves intravaginal administration of a contraceptive product immediately before intercourse, followed by an evaluation of sperm motility in cervical mucus (Ref. 12). Obviously, the most convincing line of evidence for vaginal contraceptive effectiveness of an ingredient is a controlled clinical study of the pregnancy rate expressed as the percent of pregnancies which occur in 100 woman-years of use. This rate may be compared with the pregnancy rate in a similar group of women who are using no contraceptive method.

For every nonionic surfactant, the Panel has reviewed the data supporting the claimed spermicidal potency and contraceptive effectiveness. The in vitro spermidical and in vivo animal contraceptive data which the Panel reviewed were evaluated as to whether or not they supported the spermicidal or contraceptive activity of the ingredient. The spermicidal potency and ED_{50} values are reported under each Category I ingredient. Variations in these values for a single ingredient in a variety of products reflect the effect of the vehicle on the biological activity of the spermicidal ingredient.

In the submissions of data and information there is adequate testing to demonstrate that menfegol, nonoxynol 9, and octoxynol 9 effectively immobilize sperm within the acceptable time limits of various in vitro tests, e.g., Brown-Gamble, Sander-Cramer, Diffusion, and IPPF Agreed Test procedures (Refs. 13 through 19). Additionally, the long marketing history for products containing these ingredients supports the in vitro data demonstrating that these ingredients are effective.

Animal safety testing and accumulated use-experience over the past 20 years indicate an absence of local reactions of any significance. Although there are few reports in the literature up to this time, studies by Poland (Ref. 20) have demonstrated no adverse effects on the embryo from the use of these nonionic surfactants. With respect to long-term toxicity studies, the Panel finds no long-term adverse effects in any of the submissions of data, nor in the general experience with the use of these surfactants in foods, medications, and cosmetics. The Panel, therefore, concludes that menfegol, nonoxynol 9, and octoxynol 9 are safe and effective vaginal contraceptives for OTC use. Specific ingredient reviews serve to confirm this conclusion. (See part III, paragraph B.1. below—Category I conditions under which vaginal contraceptive ingredients are generally recognized as safe and effective and are not misbranded.)

References

(1) McConnell, R., "Special Requirements of Testing Spermicides," *Acta Endocrinologica (Supplement)*, 85:373–386, 1974.
(2) Transcript of Symposium, Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products, April 28 and 29, 1978.
(3) Homm, R. E., et al., "A Comparison of the In Vivo Contraceptive Potencies of a Variety of Marketed Vaginal Contraceptive Dosage Forms," *Current Therapeutic Research*, 22:588–595, 1977
(4) Connell, E. B., et al., "A New Look at Barrier Contraceptives," *Contemporary OB/GYN, 10:77.91, 1977.*
(5) Belsky, R., "Vaginal Contraceptives, A Time for Reappraisal?", *Population Reports*, Series H, #3, 1975.
(6) Johnson, V. E., and W. H. Masters, "Intravaginal Contraceptive Study, Phase II. Physiology," *Western Journal of Surgery, Obstetrics, and Gynecology*, 71:144–153, 1963.
(7) Mann, T., "The Biochemistry of Semen," Methuen, London pp. 46, 57 and 151, 1954.
(8) Harvey, C., and R. E. Stuckey, "Spermicidal Activity of Surface-Active Agents," *Journal of Reproduction and Fertility*, 3:124–131, 1962.
(9) Homm, R. E., et al., "A Comparison of the In Vivo Contraceptive Potencies of a Variety of Marketed Vaginal Contraceptive Dosage Forms," *Current Therapeutic Research* 22:588–595, 1977.
(10) Zaneveld, L., et al., "Primate for the Evaluation of Vaginal Contraceptives," *American Journal of Obstetrics and Gynecology*, 129:368–373, 1977.
(11) Johnson, V. E., and W. H. Masters, "Intravaginal Contraceptive Study, Phase II. Physiology. (A Direct Test for Protection Potential)," *Western Journal of Surgery, Obstetrics, and Gynecology*, 71:144–153, 1963.
(12) Lightman, A. S., et al., "C-film: A New Vaginal Contraceptive," *Contraception*, 8:291, 1973.
(13) OTC Volume 110004.
(14) OTC Volume 110005.
(15) OTC Volume 110006.
(16) OTC Volume 110016.
(17) OTC Volume 110017.
(18) OTC Volume 110018.
(19) OTC Volume 110021.
(20) Poland, B. J., "Conception Control and Embryonic Development," *The American Journal of Obstetrics and Gynecology*, 106:365–368, 1970.

B. Category I Vaginal Contraceptive Ingredients

1. *Category I conditions under which vaginal contraceptive ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the Federal Register.

2. *Category I active ingredients.* The Panel has classified the following vaginal contraceptive active ingredients (nonionic surfactants) as safe and effective and not misbranded:

Menfegol
Nonoxynol 9
Octoxynol 9

a. *Menfegol.* The Panel concludes that menfegol (a nonionic surfactant) is safe and effective for OTC use as a vaginal contraceptive as specified in the dosage section below.

(1) *Safety.* Menfegol has undergone extensive toxicity testing. The Panel reviewed numerous acute, subacute, and chronic toxicity studies conducted in mice, rats, rabbits, and dogs which substantiated the safety of this ingredient. These were conducted using the intravenous, subcutaneous, oral, and vaginal routes of administration. In one 3-month study on rats, no adverse effects were indicated when menfegol was administered intravaginally at 12.5 or 50 milligrams per kilogram of body weight (mg/kg). In a 6-month chronic toxicity study, no drug-related adverse effects were indicated in the female rats which were injected subcutaneously with menfegol at dose level of 0.3, 3.0, and 30 mg/kg. Histopathologic examination revealed no organ abnormalities in the 0.3 and 3.0 mg/kg group; the only change in the 30.0 mg/kg group was slight liver congestion (Ref. 1).

Teratology studies using pregnant rats and mice demonstrated no adverse effects of menfegol on either fetuses or newborn animals at sublethal parenteral doses (Ref. 1). This ingredient has an oral LD_{50} of 8,000 mg/kg in mice.

The Panel reviewed seven clinical studies which recorded the frequency and nature of side effects associated with the use of menfegol (Ref. 2). For example, data from one study of 1,164 women indicated the most common side effects to be a sensation of warmth (16 percent) and slight vaginal discharge (16 percent). The Panel noted that vaginal absorption of menfegol has not yet been studied in the human. However, because of its extensive animal safety testing, its 10-year marketing history in several foreign countries without report of serious adverse reaction (Ref. 2), and its close chemical similarity to the other nonionic surfactants under review, the Panel concludes that menfegol is safe for OTC use.

(2) *Effectiveness.* Menfegol is a highly spermicidal nonionic surfactant. In vitro and clinical studies presented to the Panel indicate high degrees of use-effectiveness (Ref. 1). The Panel reviewed seven human effectiveness tests conducted for 12 to 18 months. The pregnancy rates in these studies ranged from 2.3 to 7.7/100 woman-years (Pearl Index basis). Postcoital testing of a product containing only menfegol as the spermicidal agent showed no spermatozoa in the cervical mucus of most patients. When spermatozoa were found, their motility was very low.

Menfegol contained in a foaming tablet formulation produced a dose-dependent decrease in the implantation rate when the tablet was placed in the vaginas of rabbits prior to mating. The vaginal contraceptive potency of menfegol in this dosage form—expressed as that dose which reduced the implantation rate to 50 percent that of the control series (ED_{50})—was 53 mg of product, corresponding to 4.0 mg of ingredient. Using the Sander-Cramer method of testing for sperm immobilization, 0.38 mg/mL of menfegol immobilized all sperm within 20 seconds (Ref. 1). The Panel concludes that menfegol is an effective contraceptive for OTC use.

(3) *Dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness-testing section of this document. (See part III. paragraph G.1. below—Testing Guidelines for Contraceptive Effectiveness.)

(4) *Labeling.* The Panel recommends the Category I labeling for contraceptive ingredients. (See part III. paragraph B.3. below—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of the product to be placed in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined elsewhere in this document. (See part II. paragraph G.5. above—Directions for use and part III. paragraph B.3. below—Category I labeling for vaginal contraceptive drug products.)

References

(1) OTC Volume 110041.
(2) OTC Volume 110040.

b. *Nonoxynol 9.* The Panel concludes that nonoxynol 9 (a nonionic surfactant) is safe and effective for OTC use as a vaginal contraceptive as specified in the dosage section below.

(1) *Safety.* The Panel reviewed several animal toxicity studies all of which substantiate the safety of this ingredient. Data submitted by one manufacturer (Ref. 1) reported that the oral LD_{50} in rats was 2.59 mL/kg. The single skin application LD_{50} in rabbits was 2.83 mL/kg. Following a single application of 0.01 mL of the pure ingredient to the uncovered skin of rabbits, primary skin irritation was slight when examined after 24 hours. When instilled in rabbit eyes, a 10 percent solution of the ingredient in water caused definite eye injury described in the submission as "surface damage."

Smyth and Calandra (Ref. 2) investigated the toxicology of an extensive series of alkylphenol polyoxyethlene nonionic surfactants. Included in this study were three different commercial samples of nonoxynol 9 as well as octoxynol 9 which is discussed below. These investigators determined that the oral LD_{50} of nonoxynol 9 in male rats was 2.6 mL/kg. Feeding nonoxynol 9 to rats for 90 days at doses of 0.01, 0.05, 0.25, and 1.25 g/kg/day resulted in decreased food intake among females at all dose levels. The 0.25 g/kg/day dose level resulted in decreased weight gain in both males and females and increased liver to body weight ratios. Slight histopathological changes in the kidney and liver were seen at this dosage level. In a similar experiment rats were fed diets containing 0, 0.01, 0.04, 0.16, 0.64, 2.5 and 5.0 percent nonoxynol 9. No histopatholgical changes were seen. Emaciation and poor organ development in rats consuming the two highest dietary concentrations were attributed to poor palatability of the food. In a third 90-day feeding study, rats were fed nonoxynol 9 at 0, 0.1, 0.3, and 1.0 percent of the diet. The 0.1 percent dose level caused no effect, whereas the 1.0 percent level resulted in decreased growth. Slight histopathological changes were seen in the liver, kidney, and spleen of rats given the two higher doses, but the authors considered these to be of no toxicological significance.

When nonoxynol 9 was fed to beagle dogs at levels of 0.04, 0.64, and 5.0

percent for 90 days, using one dog per dose level, no histopathologic changes were seen either in the treated group or the three untreated control dogs.

Nonoxynol 9 was also administered in the diet of rats at levels of 0.03, 0.09, and 0.27 percent for 2 years. There were no differences noted between control and treated rats in any observations made (e.g., food consumption, mortality, extraneous infections, liver and kidney to body weight ratios, body weight ratios, body weigh gain, red blood cell count, incidence and location of neoplasm, and histopathologic lesions). A similar study in which the same levels were fed to beagle dogs for 2 years also showed no effect other than an increased liver to body weight ratio in the dogs which consumed the 0.27-percent diet. Microscopically the livers of these dogs appeared to be normal.

Olson and coworkers (Ref. 3) studies the acute toxicity of nonoxynol 9 along with a number of other surfactants. They calculated an oral LD_{50} in rats of approximately 1.6 g/kg. A 1-percent aqueous solution of nonoxynol 9 instilled in the eye of rabbits resulted in very slight conjunctivitis, whereas a 5-percent solution caused moderate corneal injury. When aqueous solutions of nonoxynol 9 (1, 5, and 25 percent) were applied to the uncovered intact skin of rabbits, even the most concentrated solution resulted in only slight erythema (redness of the skin) demonstrating a low potential for irritation.

In another study (Ref. 1) four female dogs were treated intravaginally with 5 cc of a 12.5-percent solution of nonoxynol 9 in aerosol foam twice daily each weekday and once each day on Saturdays and Sundays for 6 months. This represents a dose that is about 10 times greater on a per kilogram basis than the recommended human dose. Two control dogs were treated intravaginally with 5 cc of normal saline solution on an identical schedule. Hematological examination, urinalysis, and clinical chemistry showed no outstanding differences between treated and control animals. No changes were seen in behavior, food consumption, or weight gain in the animals treated with nonoxynol 9. Half the treated dogs had acute ulcerative vaginitis which the authors attributed to the frequency and relatively large volume of administration. One of the two control dogs displayed a slight low-grade acute vaginitis which was attributed to similar causes.

Excretion studies by Knaak, Eldrige, and Sullivan (Ref. 4) in which a single 10-mg dose of radiolabeled nonoxynol 9 was administered orally to rats indicated that over 90 percent of the administered dose was eliminated within 2 days after administration.

Based on these data and the lack of reports of significant adverse effects in humans using products containing nonoxynol 9, the Panel concludes that nonoxynol 9 is safe for OTC use.

(2) *Effectiveness.* The effectiveness of nonoxynol 9 (a nonionic surfactant) has been well-established over more than 20 years of use (Ref. 3). In vitro laboratory tests and in vivo animal experiments cited in the surfactant discussion above have demonstrated the spermicidal activity of this class of compounds. (See part III. paragraph A.3. above—Surfactants as contraceptives.)

Using the Sander-Cramer sperm immobilization method of testing, 0.12 mg/mL immobilized all spermatozoa within 20 seconds (Ref. 5). Using the Mende and Berliner saturation or titration test, 320 mL of human semen were immobilized by 1 g of foam formulation containing nonoxynol 9, while 1 g of cream formulation containing the ingredient immobilized 105 mL of human semen (Ref. 5).

Nonoxynol 9 contained in an aerosol foam (12.0 percent), melting suppository (2.0 percent), foaming suppository (2.5 percent), and cream formulations (5.0 percent) produces dose-dependent decreases in the implantation rates in rabbits when placed in the vaginas prior to mating. Vaginal contraceptive potencies—expressed as that dose of product which reduces implantation rate to 50 percent that of the control series (ED_{50})—were 2.3 mg, 120 mg, 149 mg, and 390 mg of aerosol foam, melting suppository, foaming suppository, and cream formulation, respectively (Refs. 6, 7, and 8). Postcoital testing showed no spermatozoa in cervical mucus in most of the patients. Where spermatozoa were found, their motility was very low (Ref. 5).

In 6 clinical studies involving a total of 425 patients who used a cream formulation containing nonoxynol 9 for a total of 4,071 months, the pregnancy rates (i.e., the percent of pregnancies which occur in 100 woman-years of use) were 2.1 percent for "correct use" and 3.5 percent for "incorrect or irregular use" (Ref. 1). In other studies involving a total of 995 patients who use a foam formulation containing nonoxynol 9 for a total of 4,634 months, the pregnancy rates ranged from 2.2 to 2.4 percent for "correct use" and 3.7 to 5.4 percent for "incorrect or irregular use" (Ref. 1).

The Panel concludes that nonoxynol 9 is an effective contraceptive for OTC use.

(3) *Dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness-testing section of this document. (See part III. paragraph G.1. below—Testing Guidelines for Contraceptive Effectiveness).

(4) *Labeling.* The Panel recommends the Category I labeling for contraceptive ingredients. (See part III. paragraph B.3. below—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of product to be placed in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally, the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined elsewhere in this document. (See part II. paragraph G.5. above—Directions for use and part III. paragraph B.3. below—Category I labeling for vaginal contraceptive drug products.)

References

(1) OTC Volume 110005.
(2) Smyth, H. F., and J. C. Calandra, "Toxicologic Studies of Alkylphenol Polyethylene Surfactants," *Toxicology and Applied Pharmacology*, 14:315–334, 1969.
(3) Olson, K. J., et al., "Toxicological Properties of Several Commercially Available Surfactants," *Society of Cosmetic Chemists Journal*, 13:469–476, 1962.
(4) Knaak, J. B., J. M. Eldridge, and L. J. Sullivan, "Excretion of Certain Polyethylene Glycol Ether Adducts of Nonylphenol by the Rat," *Toxicology and Applied Pharmacology*, 9:331–340, 1966.
(5) OTC Volume 11036.
(6) Homm, R. E., et al., "Relative Antifertility Activity of Three Vaginal Contraceptive Products in the Rabbit: Relationship to In Vitro Data," *Contraception*, 13:4, April 1976.
(7) Homm, R. E. et al., "A Comparison of the In Vivo Contraceptive Potencies of a Variety of Marketed Vaginal Contraceptive Dosage Forms," *Current Therapeutic Research*, 22:583–595, 1977.
(8) Greenslade, F.C., et al., "The Rabbit as an In Vivo Animal Model for the Study of Vaginal Contraceptive Potency," *in* "Risks, Benefits, and Controversies in Fertility Control," Edited by Sciarra, J. J., et al., Harper and Row, Hagerstown, MD, pp. 534–546, 1978.

c. *Octoxynol 9.* The Panel concludes that oxtoxynol 9 (a nonionic surfactant) is safe and effective for OTC use as a

vaginal contraceptive as specified in the dosage section below.

(1) *Safety.* Octoxynol 9, like nonoxynol 9, is an alkylphenol polyoxyethylene nonionic surfactant. It is identical to nonoxynol 9 in chemical structure except that the alkyl group which substitutes the phenol portion of the molecule is a diisobutyl group rather than a straight chain nonyl group. This difference has no significant effect on the biological and chemical properties of the compound, a fact that is illustrated by the review of toxicity data on this class of nonionic surfactants by Smyth and Calandra (Ref. 1). Moreover, testing of a commercial product containing octoxynol 9 by intravaginal administration to female rabbits and monkeys resulted only in mild vaginal irritation (Ref. 2). On the basis of its similarity to nonoxynol 9 and a 20-year marketing experience which has elicited no safety problems, the Panel concludes that octoxynol 9 is safe for OTC use.

(2) *Effectiveness.* In one study using the Sander-Cramer sperm immobilization method, 0.24 mg/mL of octoxynol 9 immobilized all spermatozoa within 20 seconds (Ref. 2). Using the Mende and Berliner saturation or titration test, 13 mL of human semen were immobilized by 1 g of gel formulation. Octoxynol 9 contained in a 3-percent cream and in a 1-percent gel formulation produced dose-dependent decreases in the implanation rate in rabbits when placed in the vagina prior to mating. Vaginal contraceptive potencies—expressed as that dose of product which reduces the implanation rate to 50 percent that of the control series (ED_{50})—were 1,400 mg and 2,800 mg for cream and gel, respectively (Refs. 3, 4, and 5).

In clinical studies involving a total of 485 patients who used a gel formulation containing octoxynol 9 for a total of 3,728 months, the pregnancy rates (i.e., the percent of pregnancies which occur in 100 woman-years of use) were 3.3 percent for "correct use" and 4.7 percent for "incorrect or irregular use" (Ref. 2).

(3) *Dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness testing section of this document. (See part III. paragraph G.1. below—Testing Guidelines for Contraceptive Effectiveness.)

(4) *Labeling.* The Panel recommends the Category I labeling for vaginal contraceptive ingredients. (See part III. paragraph B.3 below—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of the product to be placed in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally, the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined elsewhere in this document. (See part II. paragraph G.5. above—Directions for use and part III. paragraph B.3. below—Category I labeling for vaginal contraceptive drug products.)

References

(1) Smyth, H. F., and J. C. Calandra, "Toxicologic Studies of Alkylphenol Polyethylene Surfactants," *Toxicology and Applied Pharmacology*, 14:315–334, 1969.

(2) OTC Volume 110005.

(3) Homm, R. E., et al., "Relative Antifertility Activity of Three Vaginal Contraceptive Products in the Rabbit: Relationship to In Vitro Data," *Contraception*, 13:4, 1976.

(4) Homm, R. E., et al., "A Comparison of the In Vivo Contraceptive Potencies of a Variety of Marketed Vaginal Contraceptive Dosage Forms," *Current Therapeutic Research*, 22:588–595, 1977.

(5) Greenslade, F. C., et al., "The Rabbit as an In Vivo Animal Model for the Study of Vaginal Contraceptive Potency," *in* "Risks, Benefits, and Controversies in Fertility Control," Edited by Sciarra, J. J., et al., Harper and Row, Hagerstown, MD, pp. 534–546, 1978.

3. *Category I labeling for vaginal contraceptive drug products.* As the Panel continued its review, it became increasingly aware of the major importance of vaginal contraception as a method within the total contraceptive armamentarium. This awareness paralleled the growing concern about immediate and possible long range side effects of other methods of fertility control. Since vaginal contraceptives are available without prescription and are frequently used without professional advice or guidance, it is all the more important that their labeling be as informative and as explicit as possible in order to promote the effective use of these products by the consumer.

The Panel recognizes that the effectiveness of any vaginal contraceptive ingredient is directly related to the accuracy and consistency with which the product containing this ingredient is used. Consequently, the Panel recommends that the concepts embodied in the terms "method-effectiveness" and "use-effectiveness," as previously defined in this document, be conveyed to consumers. (See part II. paragraph A. above—General Discussion, Introduction.) The required information should be included in a package insert or any other appropriate labeling. This information should be presented in language which can be easily read, easily understood, and readily retained by the consumer. "Method-effectiveness" should be described as that level of effectiveness which is attained by women who follow the manufacturer's instructions exactly and use the product every time they have sexual intercourse. "Use-effectiveness" should be described as that level of effectiveness which is attained by a large group of women some of whom either fail to use the product correctly or do not use it each time they have sexual intercourse.

The Panel concludes that in order for women to obtain the maximum protection against unwanted pregnancy it is essential that directions for the use of vaginal contraceptive products be accurately followed. It, therefore, believes that the directions for use should be clearly stated and illustrated in order to provide easily understandable guidance to the consumer.

Since some women douche following coitus, concern has been expressed that douching not follow intercourse too closely when a vaginal contraceptive is used in order to allow the spermicide time for effective action (Ref. 1). There are no data that document the optimum time interval that douching should be delayed. Historically, however, the generally accepted opinion holds that when vaginal contraceptives are used as the primary method of birth control, douching should be delayed for at least 6 hours after coitus. This fact should be included in the information given to the consumer.

Because a variety of dosage forms are used in the application of vaginal contraceptives (gels, creams, aerosol foams, effervescent or melting suppositories, etc.), the Panel has not attempted to provide wording and directions for each product. It recommends that proper instructions for use be the responsibility of the manufacturer and that they conform to the following general guidelines.

a. *Principal display panel.* In addition to any promotional material for a vaginal contraceptive product, the Panel believes that the principal display panel should contain certain information which is important for the correct use of the product by the consumer. While

there may be other appropriate terms, the following ones are required:

(1) The Panel recommends that the term "Vaginal Contraceptive" be placed on the principal display panel. Although other terms were considered, this term was determined to be the most accurate and understandable to the consumer.

(2) The Panel also recommends that the phrase "Intended for the prevention of pregnancy" be placed on the principal display panel.

(3) If a contraceptive product is to be used only with a diaphragm, this should be so stated on the principal display panel.

b. *Outer container.* The Panel concludes that certain labeling should be conspicuously presented on the outer container of a product. While there may be other appropriate terms, the following ones are required:

(1) *Warnings*—(i) "Keep this and all drugs out of the reach of children." (21 CFR 330.1(g))

(ii) "In case of accidental ingestion, call a Poison Control Center, emergency medical facility, or a doctor immediately."

(iii) "If vaginal irritation occurs and continues, contact your physician."

(2) *Other information*—(i) A statement of the active ingredient(s) and the quantity.

(ii) A statement of inactive ingredients.

(iii) The storage conditions for the product.

(iv) An expiration date (under conditions of normal storage).

(v) "For best protection against pregnancy, follow the instructions exactly."

(vi) Brief directions for use.

c. *Primary container.* If space permits, the primary container (e.g., tube, aerosol can, etc.) shall contain all information required on the principal display panel and the outer container except that the primary container need not state "For best protection against pregnancy, follow the instructions exactly." If it is not possible to include all of these statements, the Panel recommends that they appear in the following order of priority:

(1) "Keep this and all drugs out of the reach of children."

(2) "In case of accidental ingestion, call a Poison Control Center, emergency medical facility, or a doctor immediately."

(3) Product name.

(4) "Vaginal Contraceptive."

(5) "Intended for the prevention of pregnancy."

(6) The storage conditions for the product.

(7) Expiration date (under conditions of normal storage).

(8) Brief directions for use.

(9) "If vaginal irritation occurs and continues, contact your physician."

(10) A statement of the active ingredient(s) and the quantity.

(11) A statement of inactive ingredients.

(12) If a contraceptive product is to be used only with a diaphragm, this should be so stated.

d. *Package inserts.* As a part of Category I labeling, the Panel requires that each vaginal contraceptive product contain the information listed below. This information can be supplied to the consumer in a package insert or some other appropriate labeling. It should be presented in language which can be easily read, easily understood, and readily retained by the consumer. This information should include, but not be restricted to, the following:

(1) Clearly written and diagrammed instructions for use shall be given, including the proper method of application (insertion) and the length of time which must elapse between insertion and intercourse.

(2) "Insert —— (jelly, cream, foam, tablet, etc.) into the vagina not less than —— (minute(s)) and not more than —— (hour(s), minute(s)) before each act of intercourse."

(3) When an applicator is used for instilling a product intravaginally, instructions for cleaning the applicator shall be given.

(4) Potential local adverse reactions such as irritation of the vagina or penis shall be specifically stated. The insert should specifically state: "If vaginal irritation occurs and continues, contact your physician."

(5) "If douching is desired, always wait at least 6 hours after intercourse before douching." (See part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(6) "If this product is used together with another contraceptive method, such as a diaphragm, condom, or intrauterine device, there will probably be better protection against pregnancy."

(7) "If your physician has told you that you should not become pregnant, discuss with the physician the best method of birth control for you."

e. *Indications*—(1) "Contraceptive."

(2) "Vaginal contraceptive——." (Fill in the blank with the appropriate dosage form, e.g., "jelly," "foam," "tablet," "suppository," or "cream.")

(3) "Spermicidal."

(4) "Spermicide."

(5) "Highly spermicidal."

(6) "Powerful spermicide."

(7) "Safe."

(8) "Effective——." (Fill in the blank with one of the following terms: "contraceptive," "vaginal contraceptive," or "spermicide.")

(9) "Sperm-killing."

(10) "Intended for the prevention of pregnancy."

(11) "Essential for effective use of the diaphragm."

(12) "Extra protection for women who forget to take one or more contraceptive pills."

(13) "For women who find other methods of contraception unacceptable."

(14) "Provides reliable protection against pregnancy."

(15) "Effective contraceptive alone or in combination with condoms, diaphragm, an intrauterine device, or in the event pill is forgotten."

References

1. Silverman, E. M., and A. G. Silverman, "Persistence of Spermatazoa in the Lower Genital Tracts of Women," *Journal of the American Medical Association*, 240: 1875–1877, 1978.

C. Category II Vaginal Contraceptive Ingredients

1. *Category II conditions under which vaginal contraceptive ingredients are not generally recognized as safe and effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC vaginal contraceptive drug products effective 6 months after the date of publication of the final monograph in the Federal Register.

2. *Category II active ingredients.* The Panel has classified the following vaginal contraceptive active ingredients as not generally recognized safe and effective or as misbranded:

Phenylmercuric acetate
Phenylmercuric nitrate
Other compounds containing mercury

a. *Phenylmercuric acetate, phenylmercuric nitrate, and other compounds containing mercury.*

(1) *Safety*—(i) *General discussion.* Although phenylmercuric acetate (PMA) was the only mercury compound formally submitted for the Panel's review, compounds related to PMA, such as phenylmercuric nitrate (PMN), which also furnish mercuric ion, may be expected to have similar toxic properties and were therefore included generically in this discussion as mercury compounds. Therefore, it should be noted that in referring to data specifically related to PMA, it is the Panel's intention that such data be regarded as equally relevant for all related mercury compounds.

Considering all of the data below, the Panel concluded that vaginal contraceptives containing mercury compounds as active ingredients are not safe.

PMA is a potent spermicidal agent (Ref. 1) found as an active ingredient in some vaginal contraceptive preparations, e.g., jelly and cream (Ref. 2) containing 0.02 percent PMA, a jelly containing 0.05 percent PMA, and suppositories containing 0.4 milligram (mg) PMA (Ref. 3).

Arylmercury compounds such as PMA exhibit a relatively low degree of toxicity compared to alkylmercury compounds (Ref. 4), and the use of vaginal preparations containing PMA has not resulted in adverse systemic effects on women (Ref. 5). Further, a thorough search of the literature has failed to produce data on the effects of PMA on human embryos (Ref. 6). Nevertheless, it is well known that mercury salts are absorbed through the human vagina and distributed systemically (Ref. 7), possibly resulting in the permeation of the fetal compartment and mother's milk. Furthermore, the seriousness of mercury poisoning is beyond question, and the human fetus and child seem to be especially vulnerable to the grave dangers of such poisoning (Ref. 8). In addition to the clinical data, the case that has been built from experimental studies on animals (see below) is alone strong enough to warrant the exclusion of PMA as an active ingredient in vaginal contraceptives drug products.

At a recent conference on "The Susceptibility of the Fetus and Child to Chemical Pollutants," Fraumeni (Ref. 9) discussed "Minamata disease," a severe neurological disease resulting from the consumption of fish and shellfish contaminated with the alkylmercury compound, methylmercury. He pointed out that the incidence of neurologic disease was significantly higher in infants exposed in-utero than in persons exposed as children or adults. Cases of congenital methylmercury poisoning are briefly described below.

The following reports describe the clinical symptoms and neuropathology of infants born to mothers who has eaten food contaminated with methylmercury. Matsumoto, Koya, and Takeuchi, (Ref. 10) studies two cases of fetal Minamata disease. Minamata disease has been noted since 1953 among individuals living in the vicinity of Minamata Bay, Japan. The main pathological features of this disease consist of toxic changes in the central nervous system. By 1960, many cases of infantile cerebral palsy has been observed in the small territory surrounding Minamata Bay. It was suspected that there might be a close relationship between the cerebral palsy in children and Minamata disease, but convincing evidence could not be obtained because the children had not eaten fish or shellfish and no neurological manifestations were observed in their mothers.

The two female infants studied by Matsumoto, Koya, and Takeuchi (Ref. 10) are described in the following way. At the age of 3 months, one female infant had convulsive seizures which recurred intermittently on a few occasions. Examination at the age of 1 year and 4 months showed a poorly nourished, underdeveloped child. She has spastic paralysis of all extremities with exaggerated tendon reflexes. Mental development was at the idiot level. She died at the age of 2 years and 6 months. As for the other infant, also female, growth was slow; and at the age of 8 months, generalized convulsions were first observed. They reoccurred frequently. At 3 years and 7 months of age, the patient was a helpless, poorly nourished, underdeveloped, idiot child. She died at the age of 6 years and 3 months. Postmortem examination revealed a marked increase of the mercury content of the brain, liver, kidneys, and hair. Pathological examination of the central nervous system showed lesions similar in type and distribution to those found in adult patients suffering from Minamata disease. In both infantile cases, there was evidence of malformation of the brain. Although decrease of body weight and length was present, there were no malformations of other parts of the body.

A similar case of cogenital mercury poisoning in New Mexico was reported by Snyder (Ref. 11). In this instance, however, the mother had eaten meat from hogs which were inadvertently fed seed grain that had been treated with a methlmercury fungicide. The mother had eaten the contaminated part from the third to the sixth month of pregnancy. One minute after birth, the male infant developed intermittent gross tremulous movements of the extremities. These movements persisted for several days. In other respects the infant appeared normal on general and neurologic examination. In the neonatal period urinary mercury levels were markedly elevated. When examined at 6 weeks of age, the infant was very irritable. No mercury was detected in the urine. By 6 months of age generalized myoclonic jerks developed, and the electroencephalogram was not markedly abnormal. At 8 months of age the infant was hypotonic and irritable and had nystagmoid eye movements without evidence of visual fixation. The symptomology in the infant was in striking contrast to the absence of symptoms in his mother.

In cases of contraceptive failure involving the use of vaginal preparations containing PMA, overt symptoms of mercury poisoning have not been detected in the infants (Ref. 6). Possible subclinical effects, e.g., delayed neurologic or intellectual damage, may have escaped detection; systematic studies to identify such subclinical effects have not been undertaken. In discussing problems of surveillance of congenital malformations, Sullivan (Ref. 12) raised the question: "How teratogenic must a compound be before we can detect its effect?" To detect a teratogen that doubled the incidence of a defect, such as anencephaly with an incidence of one in one thousand (1:1,000), would require study of 23,000 newborn infants whose mothers had actually taken the drug in question during the first trimester. It does not seem feasible to make such a study.

Although the teratogenicity of PMA has been demonstrated in animal experiments (see below), a threshold embryotoxic dose for PMA (or indeed any mercurial compound) has not been established. Wilson (Ref. 13) defined the threshold dose as the highest dose which causes neither prenatal toxicity nor postnatal functional disturbance as evidenced by normal survival, growth, and motor coordination. Protocols were suggested for embryotoxicity testing based on multilevel tests in at least two species of animals that are not phylogenetically closely related. A ratio of 1,000:1 of embryotoxic threshold level in test animals to mean daily human exposure was recommended as an upper limit of tolerance because of probable differences in the embryotoxic sensitivity of test animals and man, and the possibility of overexposure. An experimental animal model for evaluating functional teratogenicity has been provided recently by Weiss and Spyker (Ref. 14). The authors carried out a series of long-term developmental and behavioral studies of mice from mothers exposed to methylmercury at different stages of gestation. In the absence of any overt signs, off spring from treated mothers behaved differently from controls when tested for subtle deviations at various stages of postnatal development. These experimental observations have clinical implications in that there may be latent effects of prenatal exposure to mercury, i.e., subtle neurological deficits and behavioral

impairment may become manifest in school-age children.

The apparent problems in surveillance and the difficulties in recognizing a causal relationship between birth defects and chemical agents have been further elucidated by experimental studies (see below) on animals treated with PMA. In brief, it was demonstrated that PMA is readily absorbed from the vagina—this has also been reported for the human vagina (Ref. 7). After absorption, PMA and its Metabolic product, Inorganic mercuric ion (Hg^{++}), are distributed in various tissues of the fetal compartment. Moreover, mercury compounds are excreted in milk. Most importantly, PMA is embryotoxic; PMA and Hg^{++} adversely affect critical biochemical systems in the cells of most tissues, particularly the nervous system. These processes are briefly discussed below.

(ii) *Biochemistry of mercury compounds.* An understanding of the biochemical mechanisms underlying the toxic action of PMA in animals provides the theoretical basis for the extrapolation from animals to man. Mercurial compounds are highly reactive, nonspecific enzyme inhibitors and membrane poisons (Ref. 15).

These actions may be ascribed to the high binding affinity of all ionic forms of mercury for the thiol or sulfhydryl (—SH) group of the amino acid cysteine, and for the thiol groups in proteins containing one or more residues of cysteine. PMA dissociates to furnish the organic mercuric ion ($C_6H_5Hg^+$). PMA is also readily metabolized to yield inorganic mercuric ion (Hg^{++}). For instance, the dissociation constant for the interaction of Hg^{++} with cysteine is of the order of 10^{-20} molar; the negative logarithm of the dissociation constant (i.e., the pK value) is 20.1. The pK values for the interaction of CH_3Hg^+ with cysteine and serum albumin are 15.7 and 22, respectively (Ref. 16). Although —SH groups are the primary site of mercurial binding, other functional groups in amino acids interact with mercurial ions. Van der Linden and Beers (Ref. 17) studied complex formation between Hg^{++} and all of the 20 amino acids that are important in protein synthesis. Chelation takes place by the *alpha*-amino-carboxylate group (R-CNH_2-COO-). In the case of histidine, complex formation takes place mainly through the nitrogen atom in the imidazole ring and the *alpha*-amino group. The ligand-binding action of mercurial compounds interfers with the function of plasma and intracellular membranes, thus suppressing erythrocyte potassium (K^+) permeability, glucose-uptake in the excised rat diaphragm, mitochondrial oxidative phosphorylation and K^+ binding, and mitochondrial swelling (Ref. 18). These authors studied the effect of Hg^{++} and PMA on hepatic lysosomal membrane integrity. An irreversible loss of structure-linked latency occurred with resulting enzyme activation. The lysosomal hydrolases studied were phosphohydrolase, *beta*-glucuronidase, and *n*-acteyl-*beta*-D-glucosaminidase.

Southard, Nitisewojo, and Green (Ref. 19) elucidated mechanisms in the perturbation of the mitochondrial control system by mercurial compounds. Oxidative phosphorylation, calcium transport, and phosphate accumulation are suppressed by mercurial compounds; whereas adenosine triphosphate (ATP) hydrolysis, K^+ transport, magnesium (Mg^{++}) transport, and configurational change are induced. The endogenous mitochondrial ion transport mechanisms are perturbed as a result of an alteration in a few critically located sulfhydryl groups contained within proteins that are intrinsic to the inner mitochondrial membrane. The accumulation of mercury in mitochondria (e.g., in the kidney of rats exposed to a lethal dose of mercuric chloride) alters the functional capabilities and ultrastructure of the mitochondria, suppreses oxidative phosphorylation, and results ultimately in the death of the animal. The properties of a mercurial-dependent ATPase activity have been examined also in isolated beef-heart mitochondria (Ref. 20).

Biochemical mechanisms underlying the neurotoxic effects of mercurial compounds have been investigated by Chang, Desnoyers, and Hartmann (Ref. 21). Adult male rats were intoxicated with methylmercuric chloride (CH_3HgCl) or mercuric chloride ($HgCl_2$). Single neurons were dissected from the dorsal root ganglia. The ribonucleic acid (RNA) of these neurons was extraced, and the base composition of the RNA analyzed. Short-term exposure to the mercurial compounds resulted in a reduction of the total RNA in these neurons without change in the base composition. Prolonged exposure to $HgCl_2$ resulted, however, in a change in RNA base composition ratios. These results are significant since RNA plays a central role in protein systhesis by ribosomes. Other investigators (Ref. 22) reported morphological modification of the endoplasmic reticulum and the ribosomes in the nerve cells after organic mercury intoxication. The susceptibility of nerve cells to mercurial compounds may depend upon their protein synthesizing activity.

The rate at which mercurial compounds pass through the plasma membrane of cells may be determined, in part, by the physical properties of these compounds. The unsubstituted alkyl and aryl mercury compounds are more soluble than Hg^{++} and its complexes in lipids (Ref. 15). The simple alkyl mercury compounds are about 100 times more soluble in lipids than in water. This property will presumably allow the organic mercury compounds to penetrate more readily than inorganic mercury into cells and tissues. Evidence for this is provided by the greater central nervous system toxicity of the organic mercury compounds (Ref. 15). The absorption rate of PMA from vaginal mucosa depends on the oil-water partition coefficient of the drug; the absorption rate of PMA is enhanced in the presence of the surfactant Carbowax 200 (Ref. 23). The low solubility of calomel (HgCl) and elemental mercury (Hg) in water probably accounts for the relatively low oral toxicity of these compounds.

(iii) *Acute toxicity studies on mercury compounds.* Regarding the acute toxicity (LD_{50}) for various mercury compounds, it appears that the arylmercury compound PMA is toxic like other mercury compounds, e.g., the LD_{50} values for PAM, $HgCl_2$, and ethylmercuric chloride are 8 to 37, 5 to 7, and 12 to 15 mg Hg/kg of body weight, respectively, in the mouse. However, chronic dosage with PMA was tolerated at relatively low levels in some animal experiments (Ref. 24). For instance, oral administration of phenylmercuric chloride to piglets at a level of 0.2 to 4.6 mg of mercury equivalent/kilogram/day (Hg/kg/day) for 1 to 90 days (total dose, 2.7 to 68 mg Hg/kg body weight) produced no signs of intoxication, whereas piglets which received 2.3 to 4.6 mg Hg/kg/day for 14 to 63 days (total dose, 32 to 320 mg Hg/kg/body weight) incurred histological lesions in the gastrointestinal tract, kidney, and liver in 1 to 31 days (Ref. 25).

(iv) *Maternal-fetal transfer of mercury compounds in animals.* Studies on placental passage of inorganic mercury are pertinent to a discussion of PMA because aryl mercuric compounds such as PMA are rapidly metabolized to Hg^{++} (Ref. 26).

Berlin and Ullberg (Refs. 27 and 28) studied the localization and uptake of isotopic mercury, ^{203}Hg, in pregnant mice following a single intravenous injection of isotopic PMA or $HgCl_2$ (0.5 mg Hg/kg of body weight in both instances); the stage of gestation was not stated. Autoradiography indicated a high

concentration of mercury in the placenta but only a trace in the fetus in the initial period following the injection of either mercury compound. However, after 8 to 16 days, the yolk sac epithelium and the fetal membranes showed a greater retention of mercury (after injections of PMA) than the placenta.

These observations were confirmed and extended by Suzuki et al. (Ref. 29). Isotopic $HgCl_2$ (1.5 mg Hg/kg) and PMA (2.5 mg Hg/kg) were injected subcutaneously into mice on the 14th day of gestation; the animals were sacrificed 4 days later. Radioactive mercury (^{203}Hg) in the organs and tissues was estimated by scintillation counting. The percent of administered mercury retained per fetus was 0.143 and 0.074 for $HgCl_2$ and PMA, respectively; the total amount of mercury retained per litter was proportional to the number of fetuses per litter. The mercury was distributed in the head as well as the trunk of the fetus. The concentration of mercury in the placenta and amniotic membranes was considerably higher than that of the fetus; the amniotic fluid also contained mercury. Similar experiments were performed with methylmercuric acetate; considerably more mercury, i.e., about 1.4 percent of the administered dose, was retained by the fetus.

In a more recent study by Garrett, Garrett, and Archdeacon (Ref. 30), a trace dose of isotopic $HgCl_2$ was injected intravenously into rats on the 16th day of gestation, and the animals were sacrificed 30 minutes after the injection. Isotopic mercury in tissues was estimated by scintillation counting. The concentration of ^{203}Hg was 0.023, 1.68, and 0.83 nanograms/gram (ng/g) in the fetus, chorioallantois, and yolk sac, respectively. Although the latter tissues retain much more mercury than the fetus and suggest a barrier function, it could not be concluded that the fetus is thus protected from the toxic effects of mercury.

Mansour et al. (Ref. 31) sought more information on the maternal-fetal transfer of mercury on a long-term basis, i.e., during late gestational stages and up to 3 weeks after delivery. Inorganic mercury, as $Hg(NO_3)_2$, and the highly toxic alkylmercury compounds, CH_3HgCl, radiolabeled with ^{197}Hg and ^{203}Hg, respectively, were administered subcutaneously in trace doses to rats at day 16, 18, and 20 of gestation. The concentrations of inorganic mercury in the placenta were 6 to 17 times higher than those in the newborn rat; in the case of the alkylmercury compound, the concentrations in the placenta and the pups were similar. The total body content of inorganic mercury was 0.07 ± 0.01 and 0.14 ± 0.04 percent of the administered dose in the infant at birth and at 3 weeks of age, respectively—the dose was administered to the mother on day 12 of gestation. The corresponding values for organic mercury content were much higher, i.e., 1.16 and 0.91 percent, respectively. The concentrations of inorganic mercury in tissues and organs of the newborn rat at 3 weeks were 0.001 ± 0.001 (blood), 0.029 ± 0.013 (liver), 0.044 ± 0.011 (kidney), 0.002 ± 0.001 (brain), and 0.005 ± 0.002 (hair), calculated as a percentage of the administered dose. The authors suggested that analysis of the placenta for mercury might be used to monitor mercury levels in newborn mammals.

In two studies Shimizu (Ref. 32) examined the distribution of PMA in nonpregnant rats and then the maternal-fetal transfer of PMA in pregnant rats. In the first study, PMA-^{203}Hg tablets were inserted into the vagina at various stages of the estrous cycle. Radioactive mercury appeared in the blood within a few hours after administration of a 1-mg tablet; a maximal blood level of about 1 microgram (μg) of PMA-^{203}Hg/0.1 mL was attained, and began to decline about 48 hours after vaginal insertion of the tablet. When the same amount of PMA-^{203}Hg was administered in 5 divided doses over a period of 5 days, a constant blood level of about 0.2 μg PMA-^{203}Hg/0.1 mL was maintained for the first 5 days; it declined slowly thereafter. The stage of the estrous cycle had no effect, and similar results were obtained with hysterectomized and hysterectomized-ovariectomized rats, indicating that vaginal absorption of PMA was independent of the estrous cycle. About 33 to 55 percent of the total radioactivity administered as PMA-^{203}Hg was excreted in the urine and feces; the latter was the major route of excretion. About 6 to 15 percent of the administered radioactivity was recovered 24 hours later in the kidneys, and about 2 to 7 percent in the liver. Much smaller amounts were recovered in the brain, heart, lungs, stomach, spleen, and uterus. The brain contained about 0.15 to 0.35 μg of PMA-^{203}Hg/g of tissue.

In Shimizu's second study (Ref. 32) 5-mg tablets of PMA-^{203}Hg were inserted into the vaginas of 6 rats on day 1 of pregnancy. The maternal blood levels of PMA-^{203}Hg promptly rose to a maximum of about 5 μg/0.1 mL, and declined slowly after day 2 of pregnancy. No PMA was found in the placenta or fetus on day 19 of pregnancy. No PMA was found in the 2-week-old offspring nor was there any external deformity, change in litter size, or growth retardation. In another experiment with 4 rats, 6-mg tablets of PMA-^{203}Hg were inserted intravaginally on day 18 of pregnancy. The fetuses and placenta were removed 24 hours later. The content of PMA-^{203}Hg varied widely, from about 0.1 to 3 μg/g and 0.4 to 12 μg/g of fetal and placental tissue, respectively. The concentration of radioactivity in the fetus correlated with that in the placenta.

(v) *Teratogenicity of PMA and inorganic mercury.* Many years after the introduction of PMA in vaginal contraceptive preparations (Ref. 1), a systematic investigation was made regarding its possible teratogenicity as a result of continued use after contraceptive failure. Murakami, Kameyama, and Kato (Ref. 33) introduced 0.1 mg of PMA in tablet form (a contraceptive preparation) into the vaginas (S_1 group) of mice on day 7 of gestation. An aqueous solution of the same amount of the PMA tablet was injected subcutaneously in another group (S group) of mice on day 8 of gestation. Both groups of treated mice and a control group of untreated pregnant mice were sacrificed on day 14 of gestation. The number of normal embryos per litter was significantly reduced in the PMA-treated groups. The percentage of abnormal embryos was 15.1 and 9.1 percent in the S_1 and S_1 groups, respectively, and only 2.7 percent in the control group. Most of the abnormalities involved the central nervous system; histological examination indicated proliferative processes of the cellular elements of the ependymal layer (the lining membrane) throughout the medullary tube, including the brain and spinal cord. The rate of embryonic death in the treated groups was about twice that in the control group. The maternal mice in the treated groups showed evidence in many cases of acute mercury poisoning; pathological lesions were found in the liver and kidneys.

Gale and Ferm (Ref. 34) reported a systematic study of the effects of mercuric acetate and PMA on embryogenesis in the golden hamster. The mercury compounds were injected intravenously on day 8 of gestation. A sham-treated group of pregnant hamsters was used as a control. The animals were sacrificed on day 12 or 14 of gestation; the fetuses were recovered, examined, and found to exhibit a delayed growth rate and various degrees of a dorsally localized subcutaneous edema. The edematous swellings resembled the blister formations or blebs found on the heads of the mouse

fetuses in the study of Murakami, Kameyama, and Kato, discussed above (Ref. 33). The resorption rates in the hamsters were much higher than the control level of 4 percent. A small number of miscellaneous abnormalities were observed including: exencephaly, slight encephalocele, anophthalmia, microphthalmia, cleft-lip and palate, rib fusions, and syndactylia. With the exception of one instance of exencephaly, none of these abnormalities were noted in control embryos. Both mercury compounds produced signs of symptoms of toxicity in the maternal hamsters, e.g., weight loss, kidney lesions diarrhea, slight tremor, and somnolence.

(vi) *Excretion of mercury in milk.* Evidence for the mammary transmission of mercury from maternal rats to the suckling litter was obtained by Mansour et al. (Ref. 31). A trace dose of inorganic mercury, $^{203}Hg(NO_3)_2$, was injected subcutaneously into four rats 24 hours after delivery; the maternal rats and their litter were sacrificed 3 weeks later. The percentage recoveries of radioactive mercury in the tissue and organs of the rats were 0.002±0.001 (whole blood), 0.056±0.023 (liver), 0.083±0.017 (kidney), 0.002±0.001 (brain) and 0.016±0.012 (hair). The recovery of mercury was much higher in the maternal rat, particularly in the kidney (10.2±2.3 percent). Studies with CH_3HgCl, radiolabeled with ^{203}Hg, produced similar results; however, more radioactive mercury was recovered in the hair (i.e., 0.21 percent and 0.12 percent in maternal and newborn hair, respectively). The authors concluded that both forms of mercury, i.e., $Hg(NO_3)_2$ and CH_3HgCl, seem to be tansferred through milk to about the same extent. These findings suggest that milk could play an important role in the accumulation of mercury in nursing infants. It would seem prudent for mothers with a known history of exposure to mercury not to nurse their babies. The authors suggest also that analysis for mercury in hair samples from a newborn infant may provide an indication of the mercury burden in the infant.

The observations of Mansour et al. (Ref. 31) regarding the apparent excretion of mercury in milk are consistent with the autoradiographic studies of Berlin and Ullberg (Ref. 27), who reported an accumulation of mercury in the mammary glands of pregnant mice following a single intravenous injection of radioactive $HgCl_2$. The latter authors cited evidence obtained by other investigators for the excretion of mercury in human milk.

Evidence for the mammary transmission of mercury to the brain of suckling rats was obtained by Yang et al. (Ref. 35), who administered a single oral dose of CH_3HgCl, radiolabeled with ^{203}Hg, to maternal rats during the 16th day of lactation. In another study mercury was shown to be excreted in the milk of guinea pigs after intraperitoneal injection of CH_3HgCl, radiolabeled with ^{203}Hg (Ref. 36).

(vii) *Absorption, metabolism, tissue uptake, and distribution of PMA and inorganic mercury—(a) Absorption of the mercury compounds from the vagina.* In 1918, Macht (Ref. 37) took exception to the prevailing opinion among physicians that drugs applied to the vagina exert only a local effect and are not absorbed into the system. In the medical literature Macht found many reports of deaths after using vaginal douches and suppositories containing highly toxic substances, including $HgCl_2$ among others. Moreover, Macht obtained experimental support for his thesis using cats and dogs. He felt that dogs were especially favorable experimental animals for such studies because their vaginal mucosa is "histologically practically the same as that of the human being." He included a large variety of substances, noting both the toxicological and pharmacodynamic effects and symptoms as proof of absorption from the vagina and passage into the bloodstream. Hartman (Ref 38) emphasized the significance of these and related observations.

The introduction of PMA as a vaginal contraceptive (Ref. 1) raised questions as to the amount of mercury which may be absorbed from the vaginal tract, and whether the amount thus absorbed may be toxic. Eastman and Scott (Ref. 39) reported that about 3 to 4 percent of the mercury instilled as PMA into the human vagina was recoverable in the urine. These investigators assumed that this amount represented the total absorption. Laug and Kunze (Ref. 40) pointed out, however, that this does not indicate the amount of mercury that might have been absorbed and stored in the tissues. The latter authors demonstrated that the absorption of mercury, as reflected by its storage rather than by its excretion, can be far greater. An aqueous 0.05 percent solution of PMA was instilled into the vaginas of young female rats; in some experiments PMA was administered in a water-soluble jelly with similar results. This is the same concentration used in a commercial preparation in which PMA is dispersed in a jelly for human use (Ref. 3). The average calculated dose of mercury as PMA was 36μg/kg which is 50 percent larger than the estimated average human dose. About 25 percent of the mercury in the administered PMA was recovered in the liver and kidney following a 24-hour vaginal exposure to the drug. In view of the repeated use of PMA as a contraceptive, the authors determined the rate at which stored mercury is discharged from the liver and kidney after a single 24-hour exposure. It was observed that once the mercury entered the organism, its removal was very slow.

It may be inferred from the studies of Murakami, Kameyama, and Kato (Ref. 33), described above, that PMA is absorbed also from the vaginal of pregnant mice since teratogenic effects and pathological lesions in the liver and kidneys of the maternal mice were observed following vaginal exposure to the drug.

PMA is also rapidly absorbed from the vaginas of young, sexually mature rabbits (Ref. 23). It appears in the blood in appreciable concentration, soon after insertion of PMA-^{203}Hg as a vaginal suppository. The rate of absorption of the drug is influenced by the partition coefficient (oil/water) of the suppository vehicle (e.g., a water-soluble vehicle promotes absorption).

Of incidental interest are the comparative studies made with other mercury compounds, particularly *omega*-ethylmercurithio-*n*-undecanoic acid (EMU) which, like PMA, exhibit antitrichomonal activity. Fukuchi, et al. (Ref. 41) stated that "toxic manifestations due to the absorption of organomercurial compounds may reflect accumulation and excertion of the compounds rather than their blood level." They recorded the daily and cumulative excretions of PMA following either a single adminstration into the vagina or 30 consecutive days of vaginal administration. They also noted the tissue uptake of PMA (and EMU) following repeated daily vaginal administraion. PMA accumulated largely in the kidney and liver; small but significant amounts of PMA were detected in other tissues, including the uterus, heart, and brain.

That the blood levels of mercury increase significantly in women using vaginal suppositories containing PMA was clearly demonstrated in a study by Al-Jobori (Ref. 7). It was shown that the mean blood level of mercury rose steadily during the 3-month period when suppositories, each containing 0.4 mg PMA, were used on the average of 2 to 6 per week. In seven patients, ranging from 25 to 40 years of age, it appeared that after PMA was absorbed from the vagina, it was rapidly metabolized in part to inorganic mercury since the

increase in blood mercury wash found in both the inorganic and organic moieties. The steady increase in urinary mercury during this period was striking; about one-half of the urinary mercury was present in inorganic form. The mean blood level of urea was somewhat elevated, i.e., about 46 percent above the control level during this period. The author suggests that the increase in blood urea was due to the action of inorganc mercury, a metabolite of PMA, on the kidney. A 34-year-old patient who had been using about 3 to 4 suppositories per week for more than 12 years was also studied. The blood and urine levels of mercury appeared to be elevated. When the use of the suppositories was discontinued for 2 months, the mercury levels in blood and urine diminished significantly, and the blood urea levels decreased about 28 percent. The blood mercury levels decreased, also in another patient when she stopped using the suppositories after 3 months of usage.

(*b*) *Absorption of PMA from the gastrointestinal tract.* PMA is absorberd in appreciable amounts from the gastrointestinal tract of rats (Ref. 42). Mercury appeared in high concentrations in the liver and kidney and in relatively low concentrations in the brain. Tokuomi (Ref. 43) reported that a considerable amount of mercury was excreted in the urine of a person who had ingested a large amount of phenylmercury compound, representing about 1 gram of mercury. It is not clear whether any clinical symptoms were observed.

(*c*) *Absorption of PMA through the skin.* Clinical data reviewed by Skerfving (Ref. 24) indicate that PMA is absorbed through the human skin. No quantitative conclusions are possible. Studies on the absorption of PMA by the skin have not been carried out in laboratory animals. However, an aryl mercury compound, i.e., phenyl-mercury-dinaphtylmethane sulfonate, in aqueous solution was applied on the body surfaces of rabbits; mercury was found in the skin, subdermal connective tissue, and muscle (Ref. 44). The concentration of mercury in muscle was three times higher than that in the solution applied.

(*d*) *Metabolism and tissue uptake of PMA and inorganic mercury.* PMA is rapidly metabolized in the rat to yield inorganic Hg^{++} (Refs. 26 and 46). For instance, 48 hours after intramuscular injection of PMA into rats (Ref. 47), only 20 percent and 10 percent of the total mercury in the liver and kidney, respectively, was present as organic mercury. It seems appropriate, therefore, to consider the distribution of mercury in the body following the administration of arylmercury, e.g., PMA and also of inorganic mercury, e.g., $HgCl_2$. Although the mercury compounds were administered by routes other than the intravaginal route, these studies are nonetheless pertinent since PMA is readily absorbed from the vagina, appearing in the blood and other tissues. The data obtained on intravenous injection of PMA and $HgCl_2$ are particularly relevant. The results obtained by the oral route of administration also need to be considered because some of the PMA applied intravaginally may be subsequently ingested.

Although there is no information available regarding the distribution of mercury in man following exposure to PMA or other arylmercury compounds, some generalizatons may be made from the animal studies. From data obtained mostly on mice and rats (Ref. 42), it may be noted that shortly after administration of PMA, the distribution pattern of mercury resembles that seen after administration of methylmercury, while later on it is closer to that seen after administering $HgCl_2$. This is due to metabolic cleavage of the covalent bond between the carbon and mercury atoms in the PMA molecule (Ref. 47) with a subsequent redistribution of Hg^{++}. The levels of mercury in the central nervous system after PMA administration are much lower than those seen after exposure to methylmercury but similar to those seen after exposure to $HgCl_2$. These results reflect the relative neurotoxicity of methylmercury, PMA, and $HgCl_2$—methylmercury being the most toxic of these compounds.

It may also be noted that the distribution changes with time regardless of whether PMA is given in a single administration or in repeated doses. In the rat (Ref. 28), a dynamic equilibrium is established 30 to 40 days after a single dose. It is also obvious (Ref. 42) that the levels of mercury found in the kidney are higher than levels in other organs. While high levels are also observed in the liver, the levels in the brain are relatively low.

Furthermore, blood has a high concentration of mercury immediately after administration of $HgCl_2$ by any route, but mercury is eliminated from blood faster than from most tissues in the body (Ref. 43). For the brain, the situation is the reverse—very little mercury penetrates into it, but once mercury has entered, the turnover is very slow. Suzuki, Miyama, and Katsunuma (Ref. 48) have shown that the elimination of mercury from the mouse brain (i.e., half-life is 2 to 3 weeks) is slower than that from the other organs (i.e., half-life is about 1 week).

(*e*) *Distribution of mercury in the nervous system.* As discussed above, small amounts of mercury are taken up by the fetal and neonatal brain after exposure of the maternal organism to PMA or mercuric mercury. The distribution of mercury in various parts of the brain in early growth and development is not known. The following data on the mature brain have been obtained only recently.

Berlin and Ullberg (Refs. 27 and 28) made autoradiograms of whole-body sagittal sections of the pregnant mice after a single intravenous injection of PMA or mercuric chloride labeled with ^{203}Hg. The darkest areas, indicative of high radioconcentration, were found in the brain stem, the area postrema, hypothalamus, and in sites adjacent to the lateral ventricles. The gray substance of the cerebellum was darker than the surrounding tissue. The darkest areas of the brain indicated a radioconcentration comparable with that of the darkest areas of the liver on day 16 following the administration of $^{203}HgCl_2$; the results obtained with radioactive PMA were similar.

It appears that the brain takes up mercury slowly, but retains it for a long time in comparison with other organs; appreciable levels of mercury are attained only in parts which constitute a small fraction of the total brain tissue. Similar observations were made on the rat, rabbit, and squirrel monkey (Ref. 49), in experiments with radioactive elemental mercury (mercury vapor) and $Hg(NO_3)_2$. Autoradiography indicated similarities in the distribution of mercury in monkey brain regardless of the type of exposure; the highest radioconcentration was in the gray matter.

The guinea pig was studied in a like fashion by Nordberg and Serenius (Ref. 50); the results were similar. The authors advanced the important concept that the brain is a critical organ in mercury poisoning and that critical levels of mercury may be attained first in certain cells of the brain. The autoradiograms in these studies indicated that certain cells in the mesencephalon have a marked capacity for retaining mercury.

Chang and Hartmann (Refs. 51, 52, and 53) applied an electron-microscopic-histochemical method to study the general cellular as well as the precise intracellular localization and distribution of mercury in various parts of the nervous system after mercury intoxication. CH_3HgCl or $HgCl_2$ was

administered to rats orally or subcutaneously. The studies with $HgCl_2$ are particularly pertinent. In general, more mercury was detected in nervous tissues after methylmercury poisoning; and, regardless of the mercury compound used, increasing amounts of mercury were found in the nerve cells, neuroglia, and nerve fibers as the intoxications progressed. After the administration of $HgCl_2$, the general distribution of mercury in the nerve cells appeared to be in dorsal root ganglion neurons, Purkinje cells of the cerebellum, ventral horn motor neurons, calcarine cortical neurons, and granule cells of the cerebellum. As for the nerve fibers, regardless of the mercury compounds used, the general distribution of mercury was in dorsal root fibers, sciatic nerves, and ventral root fibers. Intracellularly, mercury was found binding to most of the membranous structures such as the mitochondria, the endoplasmic reticulum, the Golgi apparatus, and the nuclear envelope. In the nerve fibers, mercury was predominantly localized on the myelin sheaths and on the mitochondria. Biological membranes are generally rich in thiol or sulfhydryl (—SH) groups, which may explain the preferential binding of mercury to the membranous structures.

Chang and Hartman (Ref. 53) also studied blood-brain barrier dysfunction in experimental mercury intoxication. Morphologically, the blood-brain barrier is described as a complex of very fine glial-limiting membranes surrounding the endothelium of the capillaries. Functionally, it acts not only as an obstacle to the passage of plasma solutes but also as a mediator of active biological transport securing the blood-brain exchange of metabolic material. It has been shown that in the regions of the hypothalamus, the neurohypophysis, and the area postrema there is a lack of glial membrane around some capillaries which suggests that the blood-brain barrier is weak and permeable in these regions. The authors applied a well-known technique, i.e., intracardial injection of a complex of toluidine blue and albumin, to ascertain the permeability of the brain. The mercury compounds administered to rats were methylmercury and $HgCl_2$; the latter compound is particularly pertinent. In each instance, "blue-brains" were obtained, suggesting a leakage of the protein-dye complex into the brain tissues. The brains of the dye-injected control animals were ivory-white; only a very slight bluish coloration was noted in some cerebral vasculatures and in the regions of the hypothalamus, the hypophysis, and the area postrema. "Blue-brain" phenomena were not observed shortly after administration of the respective mercury compounds but only after 24 hours or even 1 week later. When frozen sections of these "blue-brains" were examined microscopically, blue dye could be detected in many nerve cells indicating that the injected dye had penetrated into the parenchyma of the brain. The results of this study on blood-brain barrier dysfunction in experimental mercury intoxication are consistent with the obervations of other investigators (Refs. 54 and 55) who observed a marked reduction in the uptake of amino acids by the nervous system after the administration of Hg^{++}.

It is noteworthy in this context that prolonged intoxication of rats with sublethal doses of methylmercury or $HgCl_2$ (Ref. 56) resulted in a decrease in the activity of certain enzymes (e.g., glucose-6-phosphatase, alkaline phosphatase, ATPase and succinic dehydrogenase) and an increase in acid phosphatase activity in the brain, kidney, and liver. The extent of the changes in enzyme activities appeared to be related to the amount of mercury distributed to each organ.

A study by Davis et al. (Ref. 57) on central nervous system intoxication from HgCl laxatives is relevant to the discussion of PMA because these mercury compounds share an important metabolic pathway. HgCl (calomel) furnishes Hg^{+}, which is converted in the body, in part at least, to Hg^{++}; PMA, as mentioned above, is metabolized to Hg^{++}. Calomel has been considered relatively nontoxic. The authors carried out quantitative, histochemical, and ultrastructural studies on the brain and certain other organs of two patients who developed dementia, erethism (excessive irritability to stimulation), colitis, and renal failure following the chronic ingestion of a laxative containing calomel. The levels from 21 areas of the brain ranged from 0.13 to 105.85 ug of mercury per g of tissue; the highest levels were in the inferior olive, red nucleus, and choroid plexus. Histochemical stains demonstrated mercury granules within the cytoplasm of neurons in these areas of the brain. It is clear from this study that in man, as in experimental animals, mercury accumulates preferentially in certain neuronal populations of the brain. This and related studies on calomel were recently reviewed by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic and Antiemetic Drug Products as published in the Federal Register of March 21, 1975 (40 FR 12913). In infants, administration of calomel has caused a severe febrile (erythematous) disease known as acrodynia (pink disease) (Refs. 58, 59, and 60).

(*f*) *Distribution of mercury in the thyroid gland.* In view of earlier reports that exposure to mercury affects thyroid function, Suzuki, Miyama, and Katsunama (Ref. 61) investigated the retention of mercury in the thyroid gland. Rats or rabbits were injected subcutaneously with radioactive PMA, $Hg(NO_3)_2$ or methylmercuric acetate; the radioisotope was ^{203}Hg. PMA resembled mercuric nitrate in its distribution in the body. The mercury concentration in the thyroid was higher than that in the liver, brain, and blood but lower than that in the kidney (Ref. 61). It is noteworthy that the thyroid tends to retain mercury whereas the mercury levels in the liver and blood decline rapidly from day 7 to 14 following the injection. The concentration of mercury in the thyroid of the rabbit is lower than that in the kidney or liver. The follicle cells of the thyroid increase in height following exposure to mercury in all instances. The mercury is localized in the mitochondria of the follicle cells.

(*g*) *Effects of PMA and other mercury compounds on gonadal function and the gametes.* Berlin and Ullberg (Refs. 27 and 28) reported that mercury accumulates in several areas of the brain of pregnant mice, including an area corresponding to the hypothalamus. This observation prompted Lamperti and Printz (Ref. 62) to raise the questions of whether mercury interferes with the hypothalamic function, and whether that interference might be reflected in corresponding hormonal changes. To test whether mercury affects the reproductive cycle, female hamsters were injected subcutaneously with 1 mg of $HgCl_2$ per day on each day of the 4-day estrous cycle. Alterations were induced in the histology of the reproductive tract, progesterone levels, and cyclicity. The plasma progesterone levels were markedly reduced, and follicular development was retarded. It was suggested that mercury may have a direct effect on the ovary or hypothalamus.

Reproductive dysfunction in avian species exposed to $HgCl_2$ was observed by Thaxton and Parkhurst (Ref. 63). The authors allowed Japanese quail to drink, ad libitum, water containing $HgCl_2$ at the level of 125 u/mL. The reproductive efficiency (i.e., the number of mating attempts and eggs produced) was reduced drastically. The adverse effects of mercury on reproductive potential were not limited to the female; the male

was equally affected, e.g., the testis weight was reduced and there were fewer spermatogonia. It was suggested that mercury selectively inhibited the production of follicle-stimulating hormone (FSH) and/or luteinizing hormone (LH).

The possibility that mercury may be mutagenic as well as teratogenic is suggested by the following considerations. PMA and mercuric acetate, as noted above, induce embryopathic effects in the golden hamster (Ref. 34). Relatively high concentrations of mercury are found in the ovaries of mammals exposed to mercury compounds, e.g., mercaptomerin (a mercurial diuretic) concentrates in the follicular fluid (Ref. 64) and dimethylmercury in the walls of the larger follicles (Ref. 65). An increase in the number of exceptional daughter offspring (XXY) is induced in *Drosophila* with methyl- or phenyl-mercury (Ref. 66). To test the possibility that mercury may be mutagenic in mammals, Jagiello and Lin (Ref. 67) studied the potential of three mercury compounds to induce aberrations in the meiosis of mouse ova in vitro and in vivo. The compounds studied were mercaptomerin, dimethylmercury, and mercuric acetate; the latter compound is particularly pertinent since PMA is metabolized to furnish Hg^{++}. Although threshold levels of each compound were shown in vitro to induce severe effects on the nuclei of ova, i.e., retardation of meiotic progression or complete destruction of the chromosomes, no immediate or delayed effect could be demonstrated in vivo. The authors suggested that the mouse ovum is protected from the cellular effects of excess mercury by a barrier of unknown nature, perhaps residing in the zona pellucida, the vitelline membrane, or even the follicular cells. No extrapolation to potential effects of mercury on human ova in situ are possible since discrepancies have been shown to exist in the metabolic fate of various mercury compounds between species.

(2) *Effectiveness*—(i) *Sperm immobilization tests.* A vaginal suppository containing 0.4 mg PMA appeared to be less effective than other types of vaginal preparations (cream, foam, jelly) which did not contain mercury (Ref. 68 and 69). In tests employed by Johnson and Masters (Ref. 69), some of the nonmercurial preparations were shown to be highly effective in immobilizing sperm in vaginal specimens obtained from human subjects after artificial insemination.

(ii) *Clinical effectiveness.* The use-effectiveness of vaginal jellies containing PMA resulted in failure rates (pregnancies per 100 woman-years) ranging from 21 to 36 (Ref. 68); method failure was considerably lower, about 7.6. The failure rates obtained with nonmercurial vaginal preparations were similar, or in some studies much lower. Therefore, the Panel concludes that PMA is an effective contraceptive for OTC use.

(3) *Evaluation.* Although caution must be exercised in extrapolating to man the results of experimental studies on animals, it has been clearly established that PMA is absorbed from the human vagina, appearing in significant concentrations in blood and urine. In cases of contraceptive failure involving the use of vaginal preparations of PMA, overt symptoms of mercury poisoning have not been detected in infants, yet possible subclinical effects, e.g., delayed neurologic or intellectual damage, may have escaped detection. An epidemiological study to identify such subclinical effects does not seem feasible in view of the difficulties in recognizing a causal relation between birth defects and chemical agents. However, the special susceptibility of the fetus and child to chemcial pollutants, such as mercury, and the seriousness of mercury poisoning are generally recognized.

Furthermore, the Panel notes that the effectiveness of certain nonmercurial vaginal contraceptive preparations is comparable to those containing PMA. Since a safe substitute for the mercurial preparation is available, the Panel's conclusions are in accordance with the general guidelines offered by the Secretary's Pesticide Advisory Committee, H.E.W. (1971) regarding the exercise of restraint in the use of any mercury compound and the search for safe substitutes (Ref. 70).

The Panel concludes from an extensive review of the submissions and the pertinent scientific literature that mercury compounds as active ingredients in some vaginal contraceptive preparations are potentially hazardous to the fetus and the breast-fed infant. Therefore, the Panel recommends that all vaginal contraceptives containing mercury compounds as active ingredients be placed in Category II since they are not generally recognized as safe.

References

(1) Baker, J. R., R. M. Ransom, and J. Tynen, "A New Chemical Contraceptive," *Lancet*, 2:882–885, 1938.
(2) OTC Volume 110004.
(3) OTC Volume 110012.
(4) Goldwater, L. J., "Mercury. A History of Quicksilver," York Press, Baltimore, 1972.
(5) Eastman, N. J., "Further Observations on the Suppository as a Contraceptive," *Southern Medical Journal*, 42:346–350, 1949.
(6) OTC Volume 110012.
(7) Al-Jobori, I. M., "Mercury Levels in Females Exposed to Phenylmercuric Acetate," College of Pharmacy, University of Baghdad, pp. 10–110, 1975.
(8) "The Susceptibility of the Fetus and Child to Chemical Pollutants," *Journal of Pediatrics, Supplement*, 53:777–862, 1974.
(9) Fraumeni, J. F., "Chemicals in Human Teratogenesis and Transplacental Carcinogenesis. In the Susceptibility of the Fetus and Child to Chemical Pollutants," *Journal of Pediatrics, Supplement*, 53:807–812, Supplement, 1974.
(10) Matsumoto, H., C. Koya, and T. Takeuchi, "Fetal Minamata Disease. A Neuropathological Study of Two Cases of Intrauterine Intoxication by a Methylmercury Compound," *Journal of Neuropathology and Experimental Neurology*, 24:563–574, 1965.
(11) Synder, R. D., "Congenital Mercury Poisoning," *New England Journal of Medicine*, 284:1014–1016, 1971.
(12) Sullivan, F. M., "In the General Discussion, The Susceptibility of the Fetus and Child to Chemical Pollutants," *Journal of Pediatrics, Supplement*, 53:798, 1974.
(13) Wilson, J. G., "Environment and Birth Defects," Academic Press, New York, pp. 195–205, 1973.
(14) Weiss, B., and J. M. Spyker, "Behavioral Implications of Prenatal and Early Postnatal Exposure to Chemical Pollutants," *Journal of Pediatrics, Supplement*, 53:851–856, 1974.
(15) Webb, J. L., "Enzyme and Metabolic Inhibitors," Volume II, Academic Press, New York, pp. 729–1070, 1966.
(16) Hughes, W. L., "A Physiocochemical Rational for the Biological Activity of Mercury and Its Compounds," *Annals of the New York Academy of Sciences*, 65:357–652, 1957.
(17) Van der Linden, W. E., and C. Beers, "Determination of the Composition and the Stability Constants of Complexes of Mercury (II) With Amino Acids," *Analytical Chemistry Acta*, 68:143–154, 1973.
(18) Verity, M. A., and A. Reith, "Effect of Mercurial Compounds on Structure-Linked Latency of Lysosomal Hydrolases," *Biochemistry Journal*, 105:685–690, 1967.
(19) Southard, J., P. Nitisewojo, and D. E. Green, "Mercurial Toxicity and the Perturbation of the Mitochondrial Control System," *Federation Proceedings*, 33:2147–2154, 1974.
(20) Brierley, G. P., M. Jurkowitz, and K. M. Scott, "Ion Transport by Heart Mitochondria," *Archives of Biochemistry and Biophysics*, 159:742–756, 1973.
(21) Chang, L. W., P. A. Desnoyers, and H. A. Hartmann, "Quantitative Cytochemical Studies of RNA in Experimental Mercury Poisoning. II. Changes in the Base Composition and Ratios," *Acta Neuropathologica*, 23:77–83, 1973.

(22) Brown, W. J., and N. Yoshida, "Organic Mercurial Encephalopathy. An Experimental Electron Microscope Study," *Advanced Neurological Science*, 9:34–42, 1965.
(23) Fukuchi, H., et al., "The Absorpton of Organomercurial Compounds From the Vaginal Route of the Rabbit. Comparative Study on the Effect of Suppository Vehicles on the Absorption of omega-Ethyl-mercurithio-*n*-undecanoic Acid, Phenylmercuric Acetate and Ethylmercuric Chloride after Single Dose Administration," *Chemical and Pharmaceutical Bulletin*, 12:540–548, 1964.
(24) Skerfving, S., "Organic Mercury Compounds—Relation Between Exposure and Effects," *in* "Mercury in the Environment," Edited by Friberg, L., and J. Vostal, The CRC Press, Cleveland, pp. 141–168, 1972.
(25) Tryphonas, L., and N. O. Nielsen, "The Pathology of Arylmercurial Poisoning in Swine," *Canadian Journal of Comprative Medicine*, 34:181, 1970.
(26) Gage, J. C., "Distribution and Excretion of Methyl and Phenyl Mercury Salts," *British Journal of Industrial Medicine*, 21:197–202, 1964.
(27) Berlin, M., and S. Ullberg, "Accumulation and Retention of Mercury in the Mouse. I. An Autoradiographic Study After a Single Intravenous Injection of Mercuric Chloride," *Archives of Environmental Health, 5:589–560, 1963.*
(28) Berlin, M., and S. Ullberg, "Accumulation and Retention of Mercury in the Mouse. II. An Autoradiographic Comparison of Phenylmercuric Acetate With Inorganic Mercury," *Archives of Environmental Health*, 6:602–609, 1963.
(29) Suzuki, T. et al., "Placentall Transfer of Mercuric Chloride, Phenylmercury Acetate and Methyl Mercury Acetate in Mice," *Industrial Health*, 5:149–155, 1967.
(30) Garrett, N. E., R. J. B. Garrett, and J. W. Archdeacon, "Placental Transmission of Mercury to the Fetal Rat," *Toxicology and Applied Pharmacology*, 22:649–654, 1972.
(31) Mansour, M. M., et al., "Maternal-Fetal Transfer of Organic and Inorganic Mercury via Placenta and Milk," *Environmental Research*, 6:479–484, 1973.
(32) Shimizu, G., "Experimental Studies on the Internal distribution and the Effects on the Fetus of Phenylmercuric Acetate Vaginal Tablets. I. Blood Concentration and Excretion into Feces and Urine and II. Distribution of Phenylmercuric Acetate in the Organs and Its Transplacental Passage Into the Fetus," *Nippon Sanka Fujinka Gakkai Zasshi*, 22:350–358 and 1209–1215, 1970.
(33) Murkami, U., Y. Kameyama, and T. Kato, "Effects of a Vaginally Applied Contraceptive With Phenylmercuric Acetate Upon Developing Embryos and Their Mother Animals," *Ann. Rep. Res. Inst., Environ. Med. Nagoya Univ.*, pp. 88–99, 1955.
(34) Gale, T. F., and V. H. Ferm, "Embryopathic Effects of Mercuric Salts," *Life Sciences*, 10:1341–1347, 1971.
(35) Yang, M. G. et al., "Mammary Transfer of 203Hg from Mothers to Brains of Nursing Rats," *Proceedings of the Society for Experimental Biology and Medicine*, 142:723–726, 1973.
(36) Trenholm, H. L., C. J. Paul, H. Baer, and F. Iverson, "Methyl Mercury-203Hg Excretion by Lactation in Guinea Pigs," *Toxicology and Applied Pharmacology, 19:409, 1971.*
(37) Macht, D. I., "On the Absorption of Drugs and Poisons Through the Vagina," *Journal of Pharmacology and Experimental Therapeutics, 10:509–522, 1918.*
(38) Hartman, C. G., "The Permeability of the Vaginal Mucosa," *Annals of the New York Academy of Sciences*, 83:318–327, 1959.
(39) Eastman, N. J. and A. B. Scott, "Phenylmercuric Acetate as a Contraceptive," *Human Fertility*, 9:33–42, 1944.
(40) Laug, E. P., and F. M. Kunze, "The Absorption of Phenylmercuric Acetate From the Vaginal Tract of the Rat," *Journal of Pharmaology and Experimental Therapeutics*, 95:460–464, 1949.
(41) Fukuchi, H., et al., "The Absorption of Organomercurial Compounds from the Vaginal Route of the Rabbits. II. Distribution and Excretion of omega-ethylmercurithio-n-undecanoic acid and Phenylmercuric acetate," *Chemical and Pharmaceutical Bulletin*, 12:548–557, 1964.
(42) Nordberg, G. F., and S. Skerving, "Metabolism," *in* "Mercury in the Environment," Edited by Friberg, L., and J. Vostal, The CRC Press, Cleveland, pp. 29.91, 1972.
(43) Tokumoi, H., "Organic Mercury Poisoning," *Japanese Journal of Medicine*, 8:260, 1969.
(44) Goldberg, A. A., M. Shapero, and E. Wilder, "The Penetration of Phenylmercuric Dinaphtylmethane Disulphonate Into Skin and Muscle Tissue," *Journal of Pharmacy and Pharmacology*, 2:89–97, 1950.
(45) Daniel, J. W., and J. C. Gage, "The Metabolism by Rats of Phenylmercury Acetate," *Biochemical Journal*, 122:24P, 1971.
(46) Miller, V. L., P. A. Klavano, and E Csonka, "Absorption, Distribution and Excretion of Phenylmercuric Acetate," *Toxicology and Applied Pharmacology*, 2:344–352, 1960.
(47) Lefevre, P. A., and J. W. Daniel, "Some Properties of the Organomercury-Degrading System in Mammalian Liver," *FEBS Letters*, 35:121–123, 1973.
(48) Suzuki, T., T. Miyama, and H. Katsunama, "Differences in Mercury Content in the Brain After Injection of Methyl, Phenyl or Inorganic Mercury," *Proceedings on the 16th International Congress on Occupational Health*, Tyokyo, September 22 to 27, p. 563, 1969.
(49) Berlin, M., J. Fazackerly, and G. Nordberg, "The Uptake of Mercury in the Brains of Mammals Exposed to Mercury Vapour and to Mercuric Salts," *Archives of Environmental Health*, 18:719–729, 1969.
(50) Nordberg, G. F., and F. Serenius, "Distribution of Inorganic Mercury in the Guinea Pig Brain," *Acta Pharmacologica et Toxicologica*, 27:269–283, 1969.
(51) Chang, L. W., and H. A. Hartmann, "Electron Microscopic Histochemical Study on the Localization and Distribution of Mercury in the Nervous System After Mercury Intoxication," *Experimental Neurology*, 35:122–137, 1972.
(52) Chang, L. W., and H. A. Hartmann, "Ultrastructural Studies of the Nervous System After Mercury Intoxication," *Acta Neuropthologica*, 20:316–334, 1972.
(53) Chang, L. W., and H. A. Hartmann, "Blood-Brain Barrier Dysfunction in Experimental Mercury Intoxication," *Acta Neuropathologica*, 21:179–184, 1972.
(54) Steinwall, O., "Brain Uptake of Se75-selenomethionine After Damage to Blood-Brain Barrier by Mercuric Ions," *Acta Neurologica Scandinavica*, 45:362–368, 1969.
(55) Steinwall, O., and H. Snyder, "Brain Uptake of C14-cycloleucine After Damage to Blood-Brain Barrier by Mercuric Ions," *Acta Neurologica Scandinavica*, 45:369–375, 1969.
(56) Chang, L. W., R. A. Ware, and P. A. Desnoyers, "A Histochemical Study on Some Enzyme Changes in the Kidney, Liver and Brain After Chronic Mercury Intoxication in the Rat," *Food and Cosmetic Toxicology*, 11:283–286, 1973.
(57) Davis, L. E., et al., "Central Nervous System Intoxication From Mercurous Chloride Laxatives," *Archives of Neurology*, 30:428–431, 1974.
(58) Barrett, F. R., "Calomel and Pink Disease: Preliminary Report," *Medical Journal of Australia*, 44:714–716, 1957.
(59) Barrett, F. R., "A Biochemical Approach to Calomel-Induced Mercurialism and to the Etiology of Pink Disease," *Medical Journal of Australia*, 44:242–245, 1957.
(60) Jones, F. A., and E. W. Godding, "Management of Constipation," Blackwell Scientific Publication, London, p. 55, 1972.
(61) Suzuki, T., T. Miyama, and H. Katsunama, "Affinity of Mercury to the Thyroid," *Industrial Health*, 4:69–75, 1966.
(62) Lamperti, A. A., and R. H. Printiz, "Effects 1 of Mercuric Chloride on the Reproductive Cycle of the Female Hamster," *Biology of Reproduction*, 8:378–387, 1973.
(63) Thaxton, J. P., and C. R. Parkhurst, "Abnormal Mating Behavior and Reproductive Dysfunction Caused by Mercury in Japanese Quail," *Proceedings of the Society for Experimental Biology and Medicine*, 144:242–255, 1973.
(64) Von Kaulla, K. N., J. K. Aikawa, and J. D. Pettigrew, "Concentration in the Human Ovarian Follicular Fluid of Radioactive Tracers and Drugs Circulating in the Blood," *Nature*, 182:1238–1239, 1958.
(65) Ostlund, K., "Studies on the Metabolism of Methyl Mercury and Dimethyl Mercury in Mice," *Acta Pharmacologica et Toxicologica*, 27:95, 1969.
(66) Ramel, C., "Genetic Effects of Organic Mercury Compounds," *Hereditas*, 57:445–447, 1967.
(67) Jagiello, G. and J. S. Lin, "An Assessment of the Effects of Mercury on the Meiosis

of Mouse Ova," *Mutation Research*, 17:93–99, 1973.
(68) *Population Reports*, "Barrier Methods. Vaginal Contraceptives, A Time for Reappraisal?," Series H. No. 3, The George Washington University Medical Center, Washington, DC, pp. H37–H56, 1975.
(69) Johnson, V. E., and W. H. Masters, "Intravaginal Contraceptive Study. Phase II: Physiology (A Direct Test for Prospective Potential)," *Western Journal of Surgery, Obstetrics and Gynecology*, 71:144–153, 1963.
(70) Nelson, N., et al., "Hazards of Mercury. Special Report to the Secretary's Pesticide Advisory Committee, Department of Health, Education, and Welfare, November 1970, "*Environmental Research*, 4:1–69, 1971.

3. *Category II labeling.* The promotional material of other products unrelated to contraception which is included with contraceptive labeling can be misleading to the consumer. For example, certain contraceptive labeling includes promotional material for vaginal douche products. The Panel is aware that there is a long history of misunderstanding by the consumer as to the effectiveness of douching for contraception. It believes that the inclusion of such promotional material may be interpreted as an endorsement of douching as a contraceptive method or as an enhancement of the activity of the contraceptive product. Such labeling is considered misleading and is, therefore, placed in Category II.

The Panel considered at length the issues involved in labeling which makes comparisons among products, methods, and dosage forms, and labeling which expresses effectiveness as a numerical percentage (e.g., failure rate, percent of women for whom the product is effective under described use conditions, etc.). The Panel realizes that this type of labeling would be of greatest benefit to the consumer; however, it cannot recommend such labeling since there are no valid studies which would support comparative method-effectiveness or use-effectiveness claims. Furthermore, the studies that would be required to substantiate such claims are not feasible due to the size of the sample that would be needed, the variations in subject motivation for contraception, varying methods and habits of product use, and a number of other critical factors. Therefore, any comparative-effectiveness labeling is placed in Category II by this Panel. If, in the future, a manufacturer desires to label a product with such claims, the substantiating data must be submitted to the FDA through the new drug procedures.

The Panel further recommends that in order to make any numerical claims of effectiveness the manufacturer must disclose all effectiveness data used in developing such claims rather than disclosing the data selectively. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.)

In reviewing the various claims submitted by manufacturers, the Panel found the following terms unacceptable for one or more of three reasons. Terms were placed in Category II when they were found (1) to exaggerate and promote impressions of unproven safety and/or effectiveness. (2) to be vague or poorly defined, or (3) to be unamenable to proof by scientific methods. While these three reasons may not be mutually exlusive, they do serve to define unacceptable labeling practices. Generally speaking, claims and phrases which include superlative terms which ascribe medical or authoritative approval, and terms which tend to exaggerate the safety, effectiveness, or public acceptance of a product are all considered misleading. The Panel classifies all such labeling as Category II for vaginal contraceptives.

a. *Claims that exaggerate and promote impressions of unproven effectiveness.*

"(10 hour) vaginal jelly."
"Medically approved."
"Medically tested."
"Medically supervised clinical studies."
"Most frequently prescribed by physicians."
"Special barrier base."
"Remarkable birth control invention."

b. *Claims that are vague or poorly defined.*

"Inexpensive."
"Ideal."
"Outstanding sperm effect in tests comparing it to other products."
"Instantly lethal to male sperm."
"Quality assurance."

c. *Claims that are unamenable to proof by scientific methods.*

"Unique."
"Exceptional ability."

D. Category III Vaginal Contraceptive Ingredients

1. *Category III conditions for which the available data are insufficient to permit final classification at this time.* The Panel recommends that a period of 2 years be permitted for the completion of studies to support the reclassification of Category III conditions to Category I.

2. *Category III Active Ingredients.*

Dodecaethylene glycol monolaurate (polyethylene glycol 600 monolaurate)
Laureth 10S

Category III Combinations

Methoxypolyoxyethyleneglycol 550 laurate and nonoxynol 9

a. *Dodecaethylene glycol monolaurate (polyethylene glycol 600 monolaurate).* The Panel concludes that dodecaethylene glycol monolaurate is safe for OTC use but that data are insufficient to prove its effectiveness as a vaginal contraceptive.

(1) *Safety.* The Panel reviewed one study in which dodecaethylene glycol monolaurate was instilled intravaginally into 21 rabbits once daily for 21 consecutive days without any adverse effect (Ref. 1). A second study reported that application of the ingredient to the conjunctiva of 30 rabbits resulted in no local irritation or adverse effect (Ref. 1).

In evaluating human safety, the Panel is aware of one study of dodecaethylene glycol monolaurate. A jelly preparation containing this ingreident at a concentration of 5 percent (the strength of the currently marketed product) was instilled intravaginally into 50 females once nightly for periods of 10 to 21 nights. Vaginal examinations and smears done by the investigator, and personal observations by the subjects, demonstrated no irritations, side effects, or other problems (Ref. 1). Therefore, the Panel concludes that dedecaethylene glycol monolaurate is safe for OTC use.

(2) *Effectiveness.* Dedecaethylene glycol monolaurate was studied from the standpoint of how well it interferes with the passage of sperm (Ref. 1). In this barrier action study, using only one human subject, there was photographic evidence of cervical occlusion for up to 10 hours after application of the drug. There were no data submitted on the effectiveness of this ingredient alone (in vitro), and there were no data presented on postcoital human testing or animal antifertility testing of the formulation. Although clinical effectiveness data on formulations containing this ingredient were submitted, the Panel concludes that these data are insufficient at this time to determine the effectiveness of dodecaethylene glycol monolaurate as a contraceptive for OTC use.

(3) *Dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness-testing section of this document. (See part III. paragraph G.1. below—Tesing Guidelines for Contraceptive Effectiveness).

(4) *Labeling.* The Panel recommends the Category I labeling for contraceptive ingredients. (See part III. paragraph B.3.

above—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of the product to be instilled in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally, the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined earlier in this document. (See part II. paragraph G.5. above—Directions for use and part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(6) *Evaluation.* The Panel recommends that dodecaethylene glycol monolaurate be subjected to the testing procedures outlined below, in order to prove contraceptive effectiveness. (See part III, paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.)

References

(1) OTC Volume 110020.

b. *Laureth 10S.* The Panel concludes that laureth 10S, a nonionic surfactant, is safe for OTC use but that data are insufficient to prove its effectiveness as a vaginal contraceptive.

(1) *Safety.* The Panel reviewed several animal studies utilizing this ingredient. In one test which was conducted to determine whether or not laureth 10S, at 2- and 5-percent concentrations, produced irritation or toxicity when inserted daily into the vaginas of dogs for a 3-month period, the following results were recorded: First, the animals receiving both concentrations experienced much discomfort when the jelly was inserted; second, vaginal and vulvar inflammation resulted during the use of the laureth 10S at both concentrations, but when the ingredient was withheld for 2-day periods, the inflammation subsided; third, after the experiment, a histological examination of the liver, kidney, spleen, and vagina showed no evidence of any damage due to the laureth 10S (Ref. 1). In another test, when the ingredient was administered in a 5-percent concentration to a group of test dogs, using both a jelly base and a formulation containing saline, the saline formula produced a definite erythema (abnormal redness) of the vaginal wall; but the jelly base preparation produced no vulvar or vaginal irritation (Ref. 1).

A long-term intravaginal toxicity study was performed in dogs using two foam preparations containing the active ingredient. The more concentrated foam contained 10-percent active ingredient. The concentration of the other foam and the inactive ingredients were not given in the submission. At the conclusion of the experiment, no histologic changes were found in the kidneys, spleens, livers, and vaginas of animals in either test group. Likewise, urinary and hematologic studies did not show any significant changes (Ref. 1).

A single reproductive study which was conducted using rabbits was submitted to the Panel. Mated females were given 1 g of the foam preparation intravaginally 5 days a week from the fifth day of pregnancy to term. This did not result in any reduction in the size of the litters or any abnormalities in the offspring (Ref. 1).

The Panel reviewed one study of the safety of laureth 10S in humans. A jely formulation of the drug in a 2-percent concentration was administered intravaginally (daily for 21 days) to a group of 10 subjects with no adverse effects (Ref. 1). The Panel concludes that laureth 10S is safe for OTC use.

(2) *Effectiveness.* There were no data presented on in vitro studies of the ingredient alone or in formulation. In addition, there was no evidence of postcoital testing or animal antifertility studies of the formulation presented to the Panel. Therefore, the Panel concludes that data are insufficient at this time to determine the effectiveness of laureth 10S as a contraceptive for OTC use.

(3) *Proposed dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness-testing section of this document. (See part III. paragraph G.1. below—Testing Guidelines for Contraceptive Effectiveness.)

(4) *Labeling.* The Panel recommends the Category I labeling for contraceptive ingredients. (See part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of the product to be placed in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally, the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined earlier in this document. (See part II. paragraph G.5. above—Directions for use and Part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(6) *Evaluation.* The Panel recommends that laureth 10S be subjected to the testing procedures outlined below in order to prove contraceptive effectiveness. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.)

References

(1) OTC Volume 110021.

c. *Methoxypolyoxyethyleneglycol 550 laurate and nonoxynol 9.* The Panel concludes that the combination of methoxypolyoxyethyleneglycol 550 laurate and nonoxynol 9 is safe for OTC use but that data are insufficient to prove its effectiveness as a vaginal contraceptive.

(1) *Safety.* Tests in which rabbits and mice received vaginal applications of methoxypolyoxyethyleneglycol 550 laurate for 21 days resulted in no irritations. Similarly, no irritation was produced when this ingredient was applied to the conjunctiva of rabbits (Ref. 1). In the reports on clinical testing, the Panel noted that there was no local (vaginal) irritation observed in the test subjects. The Panel, therefore, concludes that this ingredient is safe for OTC use. From the safety testing performed on nonoxynol 9, the Panel concluded that it was safe for OTC use. (See part III. paragraph B.2.b. above—Nonoxynol 9.) The Panel also concludes that the combination of methoxypolyoxyetheleneglycol 550 laurate and nonoxynol 9 is safe for OTC use.

(2) *Effectiveness.* Methoxypolyoxyethyleneglycol 550 laurate is marketed in combination with nonoxynol 9 (another nonionic surfactant), and the data submitted were only on the combination product. Although the Panel concluded that nonoxynol 9 is effective (see part III. paragraph B.2.b. above—Nonoxynol 9), no in vitro, postcoital, or animal antifertility data were presented on methoxypolyoxyethyleneglycol 550 laurate alone. Additionally, there are no clinical studies which have been done on this ingredient as the sole contraceptive agent in a formulated product. Therefore, the Panel concludes that the data are insufficient at this time to determine the effectiveness of the

combination of methoxypolyoxyethyleneglycol 550 laurate and nonoxynol-9 as a contraceptive for OTC use.

(3) *Proposed dosage.* A single dose of the product must deliver the active ingredient in concentrations which as a minimum meet those standards of acceptability set forth in the effectiveness-testing section of this document. (See part III. paragraph G.1. below—Testing Guidelines for Contraceptive Effectiveness.)

(4) *Labeling.* The Panel recommends the Category I labeling for contraceptive ingredients. (See part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(5) *Directions.* The amount of the formulation to be used and the optimum time prior to intercourse at which the spermicide should be used varies with the formulation. Specific directions for use will be determined from the data derived from the required testing for each product. The directions must clearly indicate the amount of the product to be instilled in the vagina and how long prior to intercourse this must be done in order to produce effective contraception. Additionally, the period of time during which the product can be expected to retain its effectiveness must be stated. Other nonspecific labeling is outlined earlier in this document. (See part II. paragraph G.5. above—Directions for use and part III. paragraph B.3. above—Category I labeling for vaginal contraceptive drug products.)

(6) *Evaluation.* The Panel recommends that methoxypolyoxyethyleneglycol 550 laurate be subjected to the testing procedures outlined below in order to prove contraceptive effectiveness. (See part III. paragraph G. below—Testing Guidelines for Contraceptive Effectiveness.)

References

(1) OTC Volume 110016.

E. *Inactive Ingredients—Comment on Safety.* Although this review is primarily an evaluation of the safety, effectiveness, and labeling of active ingredients in OTC vaginal drug products, the Panel has determined that some of the inactive ingredients present in vaginal contraceptive products are of questionable safety. Those groups of drugs which concerned the Panel were first, the quaternary ammonium compounds (benzethonium chloride and methylbenzethonium chloride) which are used as preservatives, and second, boron-containing compounds (boric acid, sodium borate, sodium perborate) which have not been shown to be safe in concentrations yielding greater than 1.0-percent boron.

1. *Quaternary ammonium compounds (benzethonium chloride and methylbenzethonium chloride).* In its evaluation of the submitted data, the Panel has noted that the quaternary ammonium compounds were first received enthusiastically as detergent disinfectants. However, after careful review of these ingredients, it has concluded that there is significant doubt about the claimed antibacterial action and safety of these compounds. Bacterial contamination of aqueous benzalkonium chloride and of swabs sterilized with aqueous benzethonium chloride has been reported. Outbreaks of *Pseudomonas* bacteremia in several hospitals have been shown to be due to the use of contaminated solutions of quaternary ammonium compounds (Refs. 1 through 5). Warnings and comments on the use of quaternaries for wet sterilization have recently appeared in editorials in several of the leading medical journals (Refs. 6, 7, and 8).

The question of effectiveness and the potential dangers associated with the use of these compounds are based on several observations. The quaternaries are inactivated by soaps, anionic compounds, and anionic surfactants. They are selectively adsorbed on a variety of surfaces, including proteinaceous surfaces, gauze, cellulose, cork, and plastics. When applied to skin, they may form a film which is sterile on the outer surface (the hydrophilic part of the molecule), but contaminated on the under surface (the lipophilic part of the molecule), which orients towards the skin. Furthermore, since they are used in bacterial culture media to prevent the overgrowth of other organisms so that *Pseudomonas* can grow, they may actually promote the growth of *Pseudomonas* organisms. Thus, in addition to a large body of evidence demonstrating the relative ineffectiveness of quaternary compounds as bactericidal agents, there are significant concerns about their safety.

During the long marketing history of suppositories and other contraceptive products containing quaternaries, there have been no reports of clusters of vaginal or pelvic infection. Nevertheless, without specific investigation of these conditions the role that quaternaries may play in vaginal contamination by potentially pathogenic organisms will remain unknown.

The Panel, therefore, concludes that the safety and effectiveness of the quaternary ammonium compounds as preservatives in vaginal compounds are still in question.

References

(1) Malizia, W. F., et al., "Benzalkonium Chloride as a Source of Infection," *The New England Journal of Medicine,* 263:800–802, 1960.

(2) Frank, M. J., and W. Schaffner, "Contaminated Aqueous Benzalkonium Chloride (An Unnecessary Hospital Infection Hazard)," *Journal of the American Medical Association,* 236:2418–2419, 1976.

(3) Kaslow, R. A., D. C. Mackel, and G. F. Mallison, "Nosocomial Pseudobacteremia (Positive Blood Cultures Due to Contaminated Benzalkonium Antiseptic)," *Journal of the American Medical Association,* 236:2407–2409, 1976.

(4) Dixon, R. E., et al., "Aqueous Quaternary Ammonium Antiseptics and Disinfectants (Use and Misuse)," *Journal of the American Medical Association,* 236:2415–2417, 1976.

(5) Plotkin, S. A., and R. Austrian, "Bacteremia Caused by Pseudomonas Sp. Following the Use of Materials Stored in Solutions of a Cationic Surface-Active Agent," *American Journal of Medical Science,* 235:621–627, 1958.

(6) Hussey, H. H. "Benzalkonium Chloride: Failures as an Antiseptic," *Journal of the American Medical Association,* 236:2433, 1976.

(7) Fox, R. F., and I. Douglas-Wilson, "Failure of Disinfectants to Disinfect," *Lancet,* 2:306, 1958.

(8) Anonymous, "Bacteria in Antiseptic Solutions," *British Medical Journal,* 2:436, 1958.

2. *Boron compounds (boric acid and sodium borate).* In several of the contraceptive preparations reviewed by this Panel, boric acid and sodium borate are present in small doses as preservatives or as pharmaceutical necessities, without any claims for their spermicidal action. At low concentrations (less than 1 percent) boric acid and its sodium salt are considered to be safe and effective as preservatives in vaginal products. However, these concentration, must not be exceeded because a question of safety exists with the use of boron compounds at greater than preservative levels. The Panel believes that FDA should closely monitor all vaginal drug products which contain boron compounds to ensure that the consentrations do not exceed that which is necessary for preserving the product from bacterial contamination. (Further discussions and recommendations regarding boric acid, boroglycerine, sodium borate, and sodium perborate will be published in the Panel's review of other vaginal drug products which will appear in a future issue of the Federal Register.)

F. Testing Guidelines for Contraceptive Safety

Safety testing guidelines for all vaginally applied ingredients are discussed elsewhere in this document. (See part II. paragraph D. above—Drug Evaluation for Safety.)

G. Testing Guidelines for Contraceptive Effectiveness

At the present time, no specific guidelines have been provided by the FDA for testing the contraceptive effectiveness of vaginal products or for testing the validity of numerically expressed claims of effectiveness. The Panel, therefore, recommends that the following guidelines be used both for the evaluation of products intended for use as vaginal contraceptive agents and for the substantiation of numerically expressed or comparative claims.

From long-term marketing experience, certain vaginal contraceptives containing Category I ingredients have been shown to be effective. Certain of these products will require in vitro spermicidal testing to establish the dose range; no animal testing will be required. However, clinical testing under the more carefully controlled conditions described below will be required for any formulation containing ingredients assigned to Category III. Furthermore, the Panel concludes that the following set of guidelines should serve as minimal standards for the testing and evaluation of any new vaginal contraceptive drug and products.

To establish the contraceptive effectiveness of a vaginal product, in vitro testing, animal testing, and clinical testing should be carried out in the following sequence.

1. *In vitro testing.* In vitro studies, as emphasized by McConnel (Ref. 1), should be designed to test the mode of action of the contraceptive formulation in question. While most vaginal contraceptive formulations appear to be either spermicidal or sperm immobilizing, other compounds may have different modes of action. For instance, compounds such as 1-chloro-3-tosylamido-7-amino-2-heptanone hydrochloride (TLCK) interfere with fertilization by inhibiting certain enzyme activity necessary for the sperm to penetrate the ova (Ref. 2). Regarding related modes of the action of contraceptive agents, Davajan et al. (Ref. 3) have reviewed in vitro tests which allow quantitative assessment of spermicidal action by measuring the passage of sperm through human cervical mucus obtained at midcycle. During a presentation to the Panel, Blandau suggested, on the basis of his experimental studies, that bovine cervical mucus may be substituted for human cervical mucus when determining the resistance of cervical mucus to sperm penetration. This procedure would simulate the in vivo situation in which sperm and cervical mucus interact and would take into consideration additional mode of action of the vaginal contraceptive formulation, i.e., the enhancement of the resistance of the cervical mucus to the passage of sperm (Ref. 4).

The in vitro screening tests for spermicidal or sperm-immobilizing activity listed below have been reviewed by the Panel. In order for a compound to be considered an effective contraceptive formulation, it must meet one of two requirements. First, it must act rapidly and efficiently, killing or immobilizing all sperm on contact; or second, it must render the sperm incapable of fertilization. When the spermicidal forumlation is delivered initially in a solid vehicle, the active ingredient must become available 10 to 15 minutes after insertion.

Several systems for in vitro testing using human semen have been devised and used in various laboratories. Five have been in general use: the Brown and Gamble (Ref. 5); the Sander and Cramer (Ref. 6); those developed by Baker, Ronson, and Tynen (Ref. 7); the saturation or titration test devised by Mende and Berliner (referenced in the Millman study, Ref. 8); and the International Planned Parenthood Federation Agreed Test for Total Spermicidal Power (IPPF Agreed Test) (Ref. 9) based on work by Harris (Ref. 10). The IPPF Agreed Test is currently being used by most laboratories as the standard spermicide screening procedure.

Vehicles for spermicides may serve multiple functions and require evaluation as well. For instance, the vehicle may act not only as a carrier for the spermicide by may serve also as a physical barrier, either prohibiting sperm access to the cervical canal or slowing sperm motility (Ref. 1). However, the Panel recognizes that the vehicle may also negatively influence the activity of the contained ingredients. It is concerned, for instance, about the contraceptive effectiveness of an ingredient delivered in a vaginal suppository or tablet, since factors such as proper placement, time required for melting, and duration of action have not always been sufficiently well-documented. The Panel concludes that the spermicidal effectiveness of the final formulation must be demonstrated by in vitro testing.

To that end, the Panel considered the available methods of in vitro testing mentioned above. Of these, the IPPF Agreed Test appears to be the most widely used. In 1969, 87 percent of the spermicidal contraceptives available in the United Kingdom and 66 percent of those available in the United States had been tested by this method (Ref. 11). In addition, the detailed laboratory methods involved in performing the IPPF Agreed Test have been published widely, whereas the methodology of the other in vitro testing procedures is less rigorous. Therefore, the Panel recommends that the following in vitro testing procedure, derived from the IPPF Agreed Test, be required as the minimum standard for demonstrating the spermicidal effectiveness of vaginal contraceptive drug products.

a. *General criteria for effectiveness testing.* To qualify as effective, the final formulation of a vaginal contraceptive product must meet or exceed the criteria established in this protocol. Accordingly, the product reaches a desirable level of spermicidal activity provided 1.0 milliliter (mL) of a 1:11 solution of the product in sline kills all sperms in 0.2 mL of semen under the conditions of the test as described below. Each product should be tested against semen from three different individuals; if all sperm are killed in these three samples, then the product is accepted. If it fails to do this in two out of three or in all three, then it is regarded as unacceptable. If it fails with one semen sample, then the whole test is repeated using three different semen samples; and only if it kills all sperm in all of these new semen samples can it be regarded as having reached a desirable level of spermicidal activity. In other words, only one fail is permitted out of six tests.

b. *Apparatus and reagents.*

(1) 0.9 percent weight to volume (w/v) saline solution.

(2) Buffered glucose solution: Dissolve 3.0 grams (g) glucose, 0.24 g anhydrous disodium phosphate (0.45 g disodium phosphate heptahydrate), 0.01 g potassium phosphate, and 0.2 g sodium chloride in distilled water to make 100 mL.

(3) Magnetic stirrer.

(4) Stainless steel lockwasher (1.2X0.2 centimeters (cm)) or other suitable magnetic stirring bar.

(5) Glass or polyethylene-coated magnetic stirring bar.

(6) Test tubes, 85X15 mL, thick walled.

(7) Beakers, 50 mL.

(8) Pipettes as required.

(9) Timer.

(10) Microscope.

(11) Incubator or water bath (at 35 to 37° C).

(12) pH meter, equipped with glass and saturated calomel electrodes.

c. *Minimal requirements for semen to be used for testing.*

(1) *Sample collection and storage:* Specimens must not be collected in a rubber or latex sheath or condom and should be kept tightly stoppered in a tube at room temperature before being tested.

(2) *Sample age:* Not more than 4 hours old.

(3) *Density:* Not less than 50 million per milliliter.

(4) *Motility:* 40 to 50 percent of the sperm should show rapid forward motion when examined with a fresh mount at 35 to 37° C.

(5) *Viscosity:* Properly liquefied semen, not "stringy" when run out of a pipette, and appearing homogeneous to the naked eye.

d. *Control test for the effect of dilution and mixing on sperm activity.* The following control test should be done on each specimen of semen just before it is used for the spermicidal tests. If the semen is in use for more than 2 hours, the control test should be repeated.

(1) Bring all materials to 35 to 37° C, using incubator or waterbath.

(2) Pipette 0.2 mL of semen into test tube, taking care that no semen splashes up the sides of the tube.

(3) Add lockwasher or other magnetic stirring bar, insert tube in field of magnetic stirrer.

(4) Add 1.0 mL of saline, simultaneously starting stirrer and timer. This is zero time.

(5) Let mix for 10 seconds. Place a drop on a plain slide, cover with cover-slip, and put on microscope stage.

(6) At 40 seconds (i.e., 30 seconds after end of mixing) rapidly examine 5 fields with low power (100 to 150 X), followed by 5 fields with high power (400 to 600 X).

(7) If activity in the dilutionis not satisfactory in terms of the original assessment, the sample of semen must be discarded.

(8) Add 1.0 mL of buffered glucose solution, mix, and reexamine for sperm activity after 30 minutes at 37° C.

e. *Testing for spermicidal effectiveness.* Dilutions of spermicidal products should be made up freshly with a 0.9-percent saline solution, just before the test is to be done. 1.0 g of the product is weighed into a 50-mL beaker and 11.0 mL of normal saline are added; this solution is kept at 35 to 37° C for 15 minutes. After this period, the spermicidal solution is stirred for 15 minutes at 35 to 37 C if possible, otherwise at room temperature (22 to 25° C), using a glass or polyethylene-coated magnetic stirrer. Following this stirring the solution is allowed to stand at 35 to 37° C for 30 minutes. Immediately before each test the spermicidal solution is stirred 20 times, using a glass rod. The pH of the solution is recorded with a pH meter. In the case of foaming tablets, one reading is taken while foaming is in progress, and a second reading is taken when foam is completely exhausted.

(1) Bring all material to 35 to 37° C, using incubator or waterbath.

(2) Place 0.2 mL of warm semen in test tube, taking care that no semen splashes up the sides of the test tube, since this might cause a false fail.

(3) Add lockwasher or other magnetic stirring bar; insert tube in field of magnetic stirrer.

(4) Add 1.0 mL of the warm spermicidal solution prepared as above, simultaneously starting stirrer and timer. This is zero time.

(5) Let stir for 10 seconds. Place a drop on a plain slide, cover with cover-slip, and put on microscope stage.

(6) At 40 seconds examine 5 fields rapidly with low power (100 to 150 X). If no motility is observed, confirm by examining at least 5 fields under high power (400 to 600 X). If even a single sperm shows any sign of life, i.e., jerking or swimming, score "fail." If no sperms show any sign of life, score "preliminary pass."

(7) If no active sperm are found, add 1.0 mL of buffered glucose solution to the tube containing the semen-spermicide mixture. Stir well with glass rod or mix well by drawing the fluid into pipette and running out three times. Place in incubator for about 30 minutes and reexamine as above. If still no active sperm are seen, score "final pass."

f. *Test data retention.* All raw data generated as a result of this testing for every product formulation shall be retained and shall be indexed by product identification and the date of the study. The manufacturer shall permit an authorized employee to the FDA at a reasonable time and in a reasonable manner to inspect and copy all such records. If the manufacturer refuses to permit such inspection or fails to retain such test data, the FDA will take action to prohibit further marketing of the product.

g. *Test modifications.* The formulation of certain products may require modification of this in vitro testing procedure. Any proposed modification shall be submitted with supporting documentation (preferably in quadruplicate) to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The Director, Division of OTC Drug Evaluation, shall notify the applicant in writing of the agency's decision regarding the requested test modification. All such requests and the agency's response shall be maintained in a permanent file for public review at the office of the Hearing Clerk.

2. *In vivo testing*—a. *Animal testing.* The Panel recommends that testing for contraceptive effectiveness be required in two appropriate animal species, although it is aware that insufficient work has been done toward the development of animal models for this purpose. The relevance of a particular animal model system will depend on the postulated mode of contraceptive action of the vaginal preparation. For instance, if interference with sperm transport is postulated, the following observations must be considered. In humans, in most nonhuman primates, and in ruminants (e.g., sheep, oxen, etc.), semen is deposited in the vagina; whereas, in the horse, pig, dog, and in murine rodents, semen is deposited directly into the uterine lumen (Ref. 12). The latter species would, therefore, appear to be inappropriate as animal test models.

Although Hartman (referenced in the Millman study, Ref. 8) and Chang (Ref. 13) have both used the rabbit as a test model for vaginal antifertility agents, they have shown that most human spermicides were relatively ineffective in the rabbit when pregnancy rates were used as an index. However, the rabbit may be an adequate model to assess vaginal contraceptive agents (even though pregnancy is not completely inhibited) because recent studies have indicated that implantation rates can be used as a measure of vaginal contraceptive potency (Ref. 14).

It should be pointed out that tests for the effectiveness of vaginal contraceptives should be performed during the fertilizable lifetime of the ovum. And the more closely that such studies simulate the human situation, the more significant they would be. In this regard, the usefulness of the stump-tailed macaque (*Macacca arctoides*) has been reported recently by Bhattacharyya and Zaneveld (Ref. 15) and by Zaneveld et al. (Ref. 16). The Panel encourages the further development of this promising primate model for testing vaginal contraceptive effectiveness. The use of nonhuman primates in research on human reproduction has been extensively reviewed by Diczfalusy and Standley (Ref. 17).

The use of farm animals, particularly sheep, also merits consideration since the reporductive performance of

domestic animals and their fertility is well-understood. These animals have been used to study the effects of other methods of fertility control (Ref. 18) and may prove useful in the evaluation of vaginal contraceptive agents.

b. *Human effectiveness testing.* Testing for contraceptive effectiveness of vaginal products in humans has been poorly standardized. Likewise, the evaluation of those products on the market has shown wide ranges of effectiveness of the same product in different studies. The difficulty arises in the wider variance in use-effectiveness than in method-effectiveness. Studies are limited by the inappropriateness of using controls (placebo) and by the variation in the methods of statistical analysis of data. Although most results have been computed by the Pearl Formula (Ref. 19) and a few by the Life-Table method (Ref. 20), the two methods are in no way comparable. The Pearl Formula expresses method-failure rates in pregnancies per woman per year; the Life-Table method corrects for the variability in fertility rates as well as other variables.

For example, a large retrospective study in 1970 revealed that the use-effectiveness for foam products was 69 percent by the Pearl method (Ref. 21). This study was limited by the fact that it depended on patient recall. Other large prospective studies have shown failure rates as low as 3.14 percent and 3.98 percent (Refs. 22 and 23). The validity of the first of these studies was limited by a large dropout rate and by short-term usage of the product. The second was a better study in that it involved 2,932 patients of whom a significant number continued for more than 12 months.

Similar wide variations in effectiveness are reported in studies with jellies, creams, and suppositories (Ref. 24). Because of the wide range in results, the Panel found it very difficult to establish an acceptable standard of effectiveness which should be required for future products. It has, therefore, devised the following protocol for long-term prospective studies in order to establish a more accurate effectiveness standard for there products.

The effectivenes of vaginal contraceptive drug products which are to be used exclusively in conjunction with a diaphragm can only be determined by clinical studies. The Panel, therefore, recommends that such products be subjected to Phase I, Phase II, and Phase III of the clinical effectiveness testing program outlined below.

The sample size, i.e., the number of subjects, for each phase of study is given below merely for purposes of illustration. The actual sample size required is dependent upon two major factors: (1) The objective of the study and (2) the level of statistical significance required to support the conclusions drawn from the study. Methods for statistical evaluation of data on contraceptive effectiveness have been devised (Ref. 19). The Panel concludes that these methods are acceptable.

The Panel recommends that appropriate informed consent should be obtained from all study participants in accordance with § 310.102 (21 CFR 310.102). Guidelines for how such informed consent is to be obtained are available from the Division of Research Grants, the National Institutes of Health, Bethesda, MD 20014. The Panel is aware the FDA will publish a proposed regulation in a future issue of the Federal Register which will set forth procedures for obtaining informed consent.

Note.—The FDA proposed regulation on informed consent was published in the Federal Register of August 14, 1979 (44 FR 47713)).

(1) *Phase 1.* Short-term tolerance studies should be performed before embarking on any long-term programs. A study of the effect of increasing dosages, based on initial evaluation in animals, should be performed in 10 to 20 subjects using the product for at least 10 days. These subjects should be carefully evaluated for any evidence of local or generalized reaction before proceeding to Phase II. Also included in the Phase I testing would be an appropriate postcoital test such as those described by Huhner (referenced in the Davajan and Kunitake article, Ref. 25) or Johnson and Masters (Ref. 26).

(2) *Phase II.* At least 50 subjects should use the product in the recommended dosage and in accordance with the recommended method of application for 6 months to determine short-term effectiveness before proceeding to the long-term studies. The following minimal criteria should be used for selection of test subjects:

(i) Age 18 to 35 years.

(ii) Normal past medical history and normal physical examination.

(iii) No known pelvic pathology or infertility unless followed by an uneventful intrauterine pregnancy.

(iv) Previous proven fertility of the same couple (Phase II only).

(v) Menstruating regularly (at least 2 periods in the previous 3 months).

(vi) Regular coitus by history (at least two times per week).

(vii) The subject should use no other contraceptive method.

The following conditions of use should prevail:

(i) The product should be used in the anticipated recommended dose.

(ii) The product should be administered according to anticipated labeling instructions.

(iii) Prior to enrolling in the study, the subject must demonstrate to the investigator her ability to administer the product into the vagina.

(iv) The times of application and times of coitus and menstrual history must be carefully recorded (Phase II only).

Those subjects who continue into Phase III should be followed in accordance with the study protocol, and those who do not continue into Phase III should be followed through one additional normal menstrual period.

(3) *Phase III (method-effectiveness).* This Panel has previously defined method-effectiveness as that rate of effectiveness obtained in a well-controlled clinical study using highly motivated subjects. If acceptable pregnancy protection rates are demonstrated in Phase II testing, the same protocol will be used for long-term studies with the exceptions noted above. A sufficient number of volunteers should be enrolled so that a minimum of 200 will complete 12 months in the study. Significant fertility reduction must be demonstrated as required in the Phase II testing guidelines above. All data are to be analyzed by use of the Life-Table method.

(4) *Phase IV (use-effectiveness).* This Panel has previously defined use-effectiveness as that rate of effectiveness obtained when the product is used by a large number of subjects under real-life conditions (widespread general usage). It is imperative to note that the Panel does not recommend that use-effectiveness data be required in order to prove the effectiveness of a vaginal contraceptive product; only Phases I, II, and III are required. Phase IV guidelines are offered only for the substantiation of numerically expressed claims of effectiveness.

Use-effectiveness should be determined for different categories of users. For instance, a very important category would include those women most likely to be successful contraceptors: Women whose last pregnancy was planned, i.e., preceded by contraception which was discontinued in order to achieve pregnancy, and who have achieved their desired family size. Another important category would be based on the relative age of the user. Relative age is a combination of the woman's age and the number of children that she has had at the beginning of a specific birth interval

(Ref. 21). It has been shown that the failure rate or the rate of accidental pregnancy varies significantly according to the relative age of the user at the time of contraceptive failure.

Since the use-effectiveness of a vaginal contraceptive may change over a period of time as the characteristics of the population of women using the method change, the studies must be repeated at reasonable intervals. Also for this reason, studies which were carried out years ago may need to be repeated.

An effort should be made to obtain data not only on users within the health care system, e.g., in family planning clinics, but also outside this system since most users of OTC vaginal contraceptives fall into the latter group. Effectiveness data may be difficult to obtain although marketing survey methods have been used successfully in the past to obtain information on the awareness, usage, and attitude of the users toward the vaginal products.

c. *Extended use-effectiveness.* This Panel has previously defined use-effectiveness as that rate of effectiveness obtained when the product is used by a large number of subjects under real-life conditions (widespread general usage) over an extended period of time. As with Phase IV (use-effectiveness) testing, the Panel does not recommend that extended use-effectiveness data be required in order to prove the effectiveness of a vaginal contraceptive product; only Phase I, II, and III, are required. Extended use-effectiveness guidelines are offered only for the further substantiation of numerically-expressed claims of effectiveness.

A household survey methodology is best suited for evaluating the extended use-effectiveness of vaginal contraceptives. The survey should include but not be limited to information on age, race, number of children, contraceptive intent (e.g., spacing or prevention of pregnancy), marital status, coital frequency or exposure to risk, duration of use, history of pregnancies, contraceptive history within the study interval, educational level, employment, and use status at the end of the study (e.g., active user became pregnant under what circumstances, or use was discontinued for what reasons?). Documentation of these variables must be made.

d. *Data analysis.* The data from all effectiveness studies should be evaluated by the Life-Table method (Ref. 20). The Life-Table has replaced the traditional Pearl formula because it makes possible valid comparisons among studies extending over different periods. Although previous data analyzed according to the Pearl formula may be salvaged by recalculation using the Life-Table method, new data will be required for a more precise evaluation. The data may be expressed as the percentage of women who become pregnant while using the method during the course of 1 year, i.e., the rate of accidental pregnancy.

References

(1) McConnell, R. R., "Special Requirements for Testing Spermicides," *Acta Endocrinologica (Supplement)*, 85:373–386, 1974.
(2) Greenslade, F. C., J. J. McCormack, A. F. Hirsch, and J. P. DaVanzo, "Blockage of Fertilization in *Rana pipiens* by Trypsin Inhibitors," *Biology of Reproduction*, 8:306–310, 1973.
(3) Davajan, V., R. M. Nakamura, and K. Kharma, "Spermatozoan Transport in Cervical Mucus," *Obstetrical and Gynecological Survey*, 25:143, 1970.
(4) Minutes of the Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products, 15th Meeting, p. 20, January 1975.
(5) Brown, R. L., and C. J. Gamble, "Method of Testing Relative Spermicidal Effectiveness of Contraceptives and Application," *Human Fertility*, 5:97–108, 1940.
(6) Sander, F. V., and S. D. Cramer, "A Practical Method for Testing the Spermicidal Action of Chemical Contraceptives," *Human Fertility*, 6:134–138, 1941.
(7) Baker, J. R., R. M. Ranson, and J. Tynen, "The Spermicidal Powers Chemical Contraceptives. VII. Approved Tests," *Journal of Hygiene*, 37:474–488, 1937.
(8) Millman, N., "A Critical Study of Methods of Measuring Spermicidal Action," *Annals of the New York Academy of Sciences*, 54:806–823, 1952.
(9) International Planned Parenthood Federation, "Medical Handbook," 2d Ed., Edited by Kleinman, R. D., London, p. 106, 1964.
(10) Harris, W. N., "A New Test of Total Spermicidal Power," *Journal of Reproduction and Fertility*, 3:105–115, 1962.
(11) Peel, J., and M. Potts, "Textbook of Contraceptive Practice," The University Press, Cambridge, pp. 269–273, 1969.
(12) Hafez, E. S. E., "Gamete Transport," *in* "Human Reproduction," Edited by Hafez, E. S. E., and T. N. Evans, Harper and Row, New York, pp. 85–118, 1973.
(13) Chang, M. C., "Effect of Commercial Contraceptive Jellies Placed Into the Rabbit Vagina Before Mating," *Fertility and Sterility*, 11:109–111, 1960.
(14) Homm, R. E., G. E. Doscher, E. A. Hummel, and F. C. Greenslade, "Relative Antifertility Activity of Three Vaginal Contraceptive Products in the Rabbit: Relationship to In Vitro Data," *Contraception*, 13:479–488, 1976.
(15) Bhattacharyya, A. K., and L. J. D. Zaneveld, "Comparative Evaluation of Synthetic Compounds as Inhibitors of Human Acrosin and as Antifertility Agents In Vitro and in Primates" (Abstract), Ninth Annual Meeting of the Society for Reproduction, August 10–13, 1976.
(16) Zaneveld, L. J. D., et al., "Primate Model for the Evaluation of Vaginal Contraceptives," *American Journal of Obstetrics and Gynecology*, 129:368–373, 1977.
(17) Diczfalusy, E., and C. C. Standley, "The Use of Nonhuman Primates in Research on Human Reproduction," *Acta Endocrinologica (Supplement)*, 166:422–427, 1972.
(18) Letter to W. Pearlman from L. C. Ulberg, dated August 8, 1974, is included in OTC Volume 110047.
(19) Pearl, R., "Contraception and Fertility in 2,000 Women," *Human Biology*, 4:363–407, 1932.
(20) Tietze, C., and S. Lewit, "Statistical Evaluation of Contraceptive Methods," *Clincial Obstetrics and Gynecology*, 17:121–138, 1974.
(21) Ryder, N. B. "Contraceptive Failure in the United States," *Family Planning Perspectives*, 5:133–142, 1973.
(22) Carpenter, G. and J. B. Martin, "Clincial Evaluation of a Vaginal Contraceptive Foam," *in "Advances in Planned Parenthood,"* Edited by Sobrero, A. J., and C. McKee, Vol. 5, Exerpta Medica, New York, pp. 170–175, 1970.
(23) Bernstein, G. S., "Clinical Effectiveness of an Aerosol Contraceptive Foam," *Contraception*, 3:37–43, 1971.
(24) Belsky, R., "Vaginal Contraceptives, A Time for Reappraisal?", *Population Reports*, Series H, #3, 1975.
(25) Davajan, V., and G. M. Kunitake, "Fractional In Vivo and In Vitro Exam of Postcoital Cervical Mucus in the Human," *Fertility and Sterility*, 20:197–202. 1969.
(26) Johnson, V. E., and W. H. Masters, "Intravaginal Contraceptive Study, Phase II. Physiology," *Western Journal of Surgery, Obstetrics and Gynecology*, 71:144–153, 1963.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the Federal Register of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal

Regulations be amended by adding new Part 351, to read as follows:

PART 351—VAGINAL CONTRACEPTIVE AND OTHER VAGINAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—Vaginal Contraceptive Drug Products; General Provisions

Sec.
351.1 Scope.
351.3 Definition.

Active Ingredients

351.10 Vaginal contraceptive active ingredients.
351.20 Permitted combinations of active ingredients. [Reserved]

Testing Procedures

351.30 In Vitro testing for spermicidal effectiveness.

Labeling

351.50 Labeling of vaginal contraceptive drug products.
351.52 Principal display panel.
351.54 Label.
351.56 Labeling.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371; (5 US.C. 553, 554, 702, 703, 704).

SUBPART A—VAGINAL CONTRACEPTIVE DRUG PRODUCTS; GENERAL PROVISIONS

§ 351.1 Scope.

An over-the-counter vaginal contraceptive drug product in a form suitable for vaginal administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this Part 351 in addition to each of the general conditions established in § 330.1 of this chapter.

351.3 Definition.

A Vaginal contraceptive drug is a drug product which is placed in the vagina prior to intercourse for the purpose of preventing pregnancy.

Active Ingredients

§ 351.10 Vaginal contraceptive active ingredients,

The active ingredients of the product consist of any one of the following substances which is present in the product at a concentration which, meets those standards of acceptability set forth in § 351.30.

(a) Menfegol.

(c) Nonoxynol 9.

(c) Octoxynol 9.

§ 351.20 Permitted combinations of active ingredients. [Reserved]

Testing Procedures

§ 351.30 In vitro testing for spermicidal effectiveness.

(a) *General criteria.* To qualify as effective, the final formulation of a vaginal contraceptive product must meet or exceed the criteria established in this subpart. According to this protocol, the product reaches a desirable level of spermicidal activity provided 1.0 milliliter of a 1:11 solution of the product in saline kills all sperm in 0.2 milliliter of semen under the conditions of the test as described below. Each product should be tested against semen from three different individuals; if all sperm are killed in these three samples, then the product is accepted. If it fails to do this in two out of three or in all three semen samples, then it is regarded as unacceptable. If it fails with one semen sample, then the whole test is repeated using three different semen samples, and only if it kills all sperm in all of these new semen samples can it be regarded as having reached a desirable level of spermicidal activity;—in other words, only one fail is permitted out of six tests.

(b) *Apparatus and reagents.* (1) 0.9 percent weight to volume (w/v) saline solution.

(2) Buffered glucose solution: Dissolve 3.0 grams glucose, 0.24 gram anhydrous disodium phosphate (0.45 gram disodium phosphate heptahydrate), 0.01 gram potassium phosphate, and 0.2 gram sodium chloride in distilled water to make 100 milliliters.

(3) Magnetic stirrer.

(4) Stainless steel lockwasher (1.2 × 0.2 centimeters) or other suitable magnetic stirring bar.

(5) Glasss or polyethylene-coated magnetic stirring bar.

(6) Test tubes, 85 × 15 millimeters, thick-walled.

(7) Beakers, 50 milliliters.

(8) Pipettes as requried.

(9) Timer.

(10) Microscope.

(11) Incubator or waterbath (at 35° to 37° C).

(12) pH meter, equipped with glass and saturated calomel electrodes.

(c) *Minimal requirements for semen to be used for testing*—(1) *Sample collection and storage.* Specimens must not be collected in a rubber or latex sheath or condom and should be kept tightly stoppered in a tube at room temperature before being tested.

(2) *Sample age.* Not more than 4 hours old.

(3) *Density.* Not less than 50 million per milliliter.

(4) *Motility.* 40 to 50 percent of the sperm should show rapid forward motion when examined with a fresh mount at 35° to 37° C.

(5) *Visocity.* Properly liquefied semen, not "Stringy" when run out of a pipette, and appearing homogeneous to the naked eye.

(d) *Control test for the effect of dilution and mixing on sperm activity.* The following control test should be done on each specimen of semen just before it is used for the spermicidal tests. If the semen is in use for more than 2 hours, the control test should be repeated.

(1) Bring all materials to 35° to 37° C, using an incubator or waterbath.

(2) Pipette 0.2 milliliter of semen into a test tube, taking care that no semen splashes up the sides of the tube.

(3) Add a lockwasher or other magnetic stirring bar, and insert the tube in the field of the magnetic stirrer.

(4) Add 1.0 milliliter of saline, simultaneously starting the stirrer and timer. This is zero time.

(5) Let mix for 10 seconds. Place a drop on a plain slide, cover with a cover-slip, and put on the microscope stage.

(6) At 40 seconds (i.e., 30 seconds after end of mixing) rapidly examine five fields with low power (100 to 150 ×), followed by five fields with high power (400 to 600 ×).

(7) If activity in the dilution is not satisfactory in terms of the original assessment, the sampe of semen must be discarded.

(8) Add 1.0 milliliter of buffered glucose solution, mix, and reexamine for sperm activity after 30 minutes at 37° C.

(e) *Testing for spermicidal effectiveness.* Just before the test is to be done, dilutions of spermicidal products should be made up freshly with a 0.9-percent saline solution. One gram of the product is weighed into a 50-milliliter beaker, and 11.0 milliliters of normal saline are added. This solution is kept at 35° to 37° C for 15 minutes. After this period, the spermicidal solution is stirred for 15 minutes at 35° to 37° C if possible—otherwise at room temperature (22° to 25° C)—using a glass or polyethylene-coated magnetic stirrer. After this stirring, the solution is allowed to stand at 35° to 37° C for 30 minutes. Immediately before each test, the spermicidal solution is stirred 20 times, using a glass rod. The pH of the solution is recorded with a pH meter. For foaming tablets, one reading is taken while foaming is in progress, and a second reading is taken when the foam is completely exhausted.

(1) Bring all material to 35° to 37° C, using an incubator or waterbath.

(2) Place 0.2 milliliter of warm semen in a test tube, taking care that no semen splashes up the sides of the test tube because this might cause a false-fail.

(3) Add a lockwasher or other magnetic stirring bar, and insert the tube in the field of the magnetic stirrer.

(4) Add 1.0 milliliter of the warm spermicidal solution prepared as above, simultaneously starting the stirrer and timer. This is zero time.

(5) Let stir for 10 seconds. Place a drop on a plain slide, cover with a cover-slip, and put on the microscope stage.

(6) At 40 seconds examine five fields rapidly with low power (100 to 150X). If no motility is observed, confirm by examining at least five fields under high power (400 to 600X). If even a single sperm shows any sign of life, i.e., jerking or swimming, score "fail." If no sperm show any sign of life, score "preliminary pass."

(7) If no active sperms are found, add 1.0 milliliter of buffered glucose solution to the tube containing the semen-spermicide mixture. Stir well with a glass rod or mix well by drawing the fluid into a pipette and running out three times. Place in an incubator for about 30 minutes and reexamine as above. If still no active sperms are seem, score "final pass."

(f) *Test data retention.* All raw data generated as a result of this testing for every product formulation shall be retained and shall be indexed by product identification and the date of the study. The manufacturer shall permit an authorized employee of the Food and Drug Administration at a reasonable time and in a reasonable manner to inspect and copy all such records. If the manufacturer refuses to permit such inspection or fails to retain such test data, the Food and Drug Administration will take action to prohibit further marketing of the product.

(g) *Test modifications.* The formulation of certain products may require modification of this in vitro testing procedure. Any proposed modification shall be submitted with supporting documentation (preferably in quadruplicate) to the office of the Hearing Clerk (HFA-305), food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The Director, Division of OTC Drug Evaluation, shall notify the applicant in writing of the agency's decision regarding the requested test modification. All such requests and the agency's response shall be maintained in a permanent file for public review at the office of the Hearing Clerk.

Labeling

§ 351.50 Labeling of vaginal contraceptive drug products.

(a) The following definitions draw distinctions between various parts of the labeling.

(1) According to the definition in section 201 (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (m), the term "labeling" means all labels and other written, printed, or graphic matter (e.g., package inserts) on or accompanying any article or any of its containers or wrappers.

(2) According to the definition in section 201(k) of the act, the term "label" specifically means that part of the labeling which appears on the immediate container of any article.

(3) According to the definition in § 201.60 of this chapter, the term "principal display panel" means that part of the label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(b) The distinctions in paragraph (a) of this section are pointed out because certain information is to be contained in specific locations within the labeling of vaginal contraceptive drug products. Accordingly, the labeling of the product contains all the information required by §§ 351.52, 351.54, and 351.56. The label of the product contains all the information required by §§ 351.52 and 351.54. And the principal display panel contains all the information required by § 351.52.

§ 351.52 Principal display panel.

(a) *Statement of identity.* The principal display panel of the product contains the established name of the drug, if any, and identifies the product as a "vaginal contraceptive."

(b) *Other information.* The principal display panel of the product contains the following additional information.

(1) "Intended for the prevention of pregnacy."

(2) When applicable, the principal display panel contains a statement that the product is to be used only with a diaphragm.

§351.54 Label.

The label of the product contains the information required by § 351.52 in addition to the following statements.

(a) *Warnings.* The label of the product contains the following warnings under the heading "Warnings."

(1) "Keep this and all drugs out of the reach of children."

(2) "In case of accidental ingestion, call a Poison Control Center, emergency medical facility, or a doctor."

(3) "If vaginal irritation occurs and continues, contact your physician."

(b) *Other required information.* The label of the product contains the following additional information.

(1) A statement of the active ingredient(s) and the quantity.

(2) A statement of the inactive ingredients.

(3) The storage condition of the product.

(4) An expiration date (under conditions of normal storage).

(5) Brief directions for use which include a statement setting forth the length of time which must elapse between insertion and intercourse in order to provide maximum protection against pregnancy.

§ 351.56 Labeling.

The labeling of the product contains all the information required by §§ 351.52 and 351.54 in addition to the following statements.

(a) *Directions.* The labeling of the product contains the following information under the heading "Directions," followed by "or as directed by a physician."

(1) Diagrammed instructions explaining the proper method of application (insertion).

(2) "Insert —— (jelly, cream, foam, tablet, etc.) into the vagina not less than —— (minute(s)) and not more than —— (hour(s), minute(s)) before each act of intercourse."

(3) "If this product is used together with another contraceptive method, there will probably be better protection against pregnancy."

(4) "If your physician has told you that you should not become pregnant, ask your physician if you can use this product for contraception."

(5) "If douching is desired, always wait at least 6 hours after intercourse before douching."

(6) Instructions for cleaning the applicator (if applicable).

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "indications" that is limited to one or more of the following phrases.

(1) "Vaginal contraceptive ——." Fill in the blank with the appropriate dosage form, e.g., "jelly," "foam," "tablet," "suppository," "cream."

(2) "Spermicidal."

(3) "Spermicide."

(4) "Sperm-killing."

(5) "Extra protection for women who forget to take one or more contraceptive pills."

(6) "For women who find other methods of contraception unacceptable."

(7) "Provides reliable protection against pregnancy."

(8) "Effective contraceptive alone or in the event the contraceptive pill is forgotten."

(c) *Other allowable statements.* The labeling may also contain any of the following words or phrases:

(1) "Safe."

(2) "Effective contraceptive."

(3) "Effective vaginal contraceptive."

(4) "Effective spermicide."

(5) "Highly spermicidal."

(6) "Powerful spermicide."

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before March 12, 1981. Comments should be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before April 13, 1981. Comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 2, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-38360 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-03-M

federal register

Friday
December 12, 1980

Part VI

Department of Health and Human Services

Food and Drug Administration

Response to Petition Seeking Withdrawal of the Policy Described in the Agency's "Paper" NDA Memorandum of July 31, 1978

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79P-0484]

Response to Petition Seeking Withdrawal of the Policy Described in the Agency's "Paper" NDA Memorandum of July 31, 1978

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs has considered a petition (Docket No. 79P-0484) that the agency policy described in a staff memorandum of July 31, 1978, on "NDA's for Duplicate Drug Products of Post-1962 Drugs" be withdrawn and implemented, if at all, only after it is published in the Federal Register as a proposal subject to notice-and-comment rulemaking. This notice announces that the Commissioner has determined that the policy stated in the memorandum does not require rulemaking procedures, that the policy is a lawful exercise of FDA's statutory authority, and that the public health and safety would be best served by continued implementation of the policy, popularly known as the "paper NDA" policy. Therefore, the current stay on implementation of the policy, granted by the Commissioner during the period of consideration of the petition, will extend only to and including December 22, 1980.

EFFECTIVE DATES: Denial of Procedure Requested in Paper NDA Petition: December 12, 1980; resumption of implementation of Paper NDA Policy: December 23, 1980.

ADDRESSES: Communications concerning this notices should be identified with the docket number appearing in the heading of this notice and addressed to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carol A. Kimbrough, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 31, 1978, the Associate Director for New Drug Evaluation of FDA's Bureau of Drugs sent a memorandum to the directors of the bureau divisions responsible for new drug application (NDA) review. (The memorandum is attached as exhibit 1 to the petition which is on file, as discussed below, at the Dockets Management Branch (HFA-305), Food and Drug Administration.) The memorandum was entitled "NDAs for duplicate drug products of post-1962 drugs," (hereafter referred to as the July 31 staff memorandum). It advised in pertinent part as follows:

> A drug marketed for the first time after 1962 under an approved new drug application may be marketed by a second firm only after the second firm has received the approval of a full new drug application for that product. Current agency policy does not permit ANDAs for this purpose. Present interpretation of the law is that no data in an NDA can be utilized to support another NDA without express permission of the original NDA holder. Thus, in the case of duplicate NDAs for already approved post-1962 drugs, the agency will accept published reports as the main supporting documentation for safety and effectiveness. The agency will not interpret the "full reports of investigations" phrase in the law [21 U.S.C. 355(b)(1)] as requiring either case reports or an exhaustive review of all pubished reports on the drug. Depending upon the quality of the published data, selected pre-clinical and perhaps additional clinical studies may be required of the new sponsor prior to NDA approval. (Statutory reference added.)

Because the July 31 staff memorandum referred to the use of literature reports as the main supporting documentation of a drug's safety and efficacy, such a submission became known as a "Paper NDA." While the agency has relied on and continues to rely on the information in the scientific literature in the NDA review process, the paper NDA is contrasted with a new drug application which, while it may contain reports from the published literature, also contains reports of investigations for which raw data (such as laboratory reports, or physician evaluation forms) are included or are available. The latter application usually is submitted when a sponsor has conducted clincial investigations of a new chemical entity, new formulation, or new indications, while paper NDA's have been submitted whenever adequate reports exist in the scientific literature.

The significance of the paper NDA policy as applied to duplicate products of post-1962 drugs arises from its capacity to eliminate the need for duplicative drug product testing. When it is well established in the literature that a drug is safe and effective for a particular use, the agency believes that there is no valid scientific reason to require more tests in animals and humans to show that the same drug is safe and effective for the same use. Such tests are ethically questionable because they may expose human subjects to risk without medical justification, and they are wasteful of limited resources.

The paper NDA policy is also significant due to its potential effects on prescription drug competition. As a practical matter, the requirement for the submission of raw data to substantiate studies may serve as an entry barrier to potential competitors because raw data usually are available only to the person conducting the studies, e.g., the originator of a new drug. If the sponsor-originator of an approved new drug application can maintain sole access to the raw data underlying studies of safety and efficacy, the only way (absent a paper NDA policy) in which any other sponsor could attempt to secure an approved application for marketing the same drug would be to conduct additional (and duplicative) studies of the drug. In the lawsuit, discussed below, that preceded this petition, the petitioners admitted that they object to the paper NDA policy:

> * * * because a competing manufacturer winning approval of a duplicate product without having borne the expense of clinical investigation and the "raw data" required of the pioneer applicant will have a less costly product, the marketing of which would place the pioneer applicant at a competitive disadvantage.

Hoffman-La Roche, Inc. v. *Harris*, 484 F. Supp. 58, 62 (D.D.C. 1979).

The agency believes that the paper NDA policy will help to reduce prescription drug costs through increased competition that can result from the marketing of generic drug products. The policy is, therefore, consistent with departmental and agency initiatives to reduce health care costs. For example, in January 1979 the Department of Health and Human Services (then the Department of Health, Education, and Welfare) and the Federal Trade Commission released a Model State Law to assist the States in developing new or more effective legislation governing generic drug product selection. FDA has published a list of approved prescription drug products with therapeutic equivalence evaluations. (See 45 FR 72583; October 31, 1980.) The List has the potential for assisting the States in reducing prescription drug costs as they provide health care services that include the purchase or reimbursement of drug products and for assisting the States in reducing drug product costs to private citizens who purchase such products from pharmacists operating under State laws that authorize generic drug product selection. FDA believes that the paper NDA policy will help to eliminate unnecessary testing, conserve scientific resources, and encourage competition.

II. The Petition

On January 10, 1980, two drug manufacturers, Hoffman-La Roche, Inc., and American Hospital Supply Corp., and the Pharmaceutical Manufacturers Association (PMA) jointly petitioned that the paper NDA policy, as described in the staff memorandum of July 31, 1978, be implemented, if at all, only after publication in the Federal Register as a proposal subject to notice and opportunity for comment as required, petitioners contend, by the Administrative Procedure Act, 5 U.S.C. 553, and the agency's procedural regulations, 21 CFR 10.40. (The petition, the exhibits submitted with the petition, additional exhibits referred to herein, and correspondence concerning the petition received from the public have been filed with the Dockets Management Branch, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday. The petitioners also seek a ruling that the policy stated in the memorandum cannot be promulgated without congressional authorization.

The petition followed a lawsuit brought against the agency by Hoffman-La Roche (later joined in a consolidated suit by American Hospital Supply Corp. and the PMA) in which the plaintiffs sought to have the court prevent the FDA from approving any application by a competing drug manufacturer for approval to market a generic version of a drug previously approved by the agency subsequent to 1962, unless the competing applicant filed reports of clinical tests to support the drug's safety and efficacy, and the raw data were supplied to or make available for the agency. Three parties intervened in the law suit in support of the policy stated in the July 31 staff memorandum: National Association of Pharmaceutical Manufacturers; American Federation of Independent Pharmaceutical Manufacturers, and IMS Limited (the company that has obtained the first approval of a literature supported NDA for a generic version of a post-1962 drug).

The court dismissed the complaint on the ground that the plaintiffs had failed to invoke or exhaust their remedy under the Administrative Procedure Act, 5 U.S.C. 553(e), in that they could and should have petitioned the Commissioner, using the administrative procedure provided in 21 CFR 10.25, before seeking judicial intervention. *Hoffman-La Roche, Inc.* v. *Harris*, 484 F. Supp. 58 (D.D.C. 1979) notice of appeal filed, (D.C. Cir., February 19, 1980).

III. The Requirement of the Federal Food, Drug, and Cosmetic Act for "Full Reports" of Investigations Showing Safety and Effectiveness

The Federal Food, Drug, and Cosmetic Act (the act), as passed by Congress in 1938, established a system of premarket clearance for drugs under which proponents of a drug were required to submit to FDA a new drug application containing, among other things, data showing the drug's safety. (See section 201(p)(1) and 505(a) of the act as enacted; 52 Stat. 1041 and 52 Stat. 1052.) In 1962, Congress amended the act to require a showing of effectiveness as well as safety before an NDA could be approved. (See 21 U.S.C. 355 (b) and (e).)

The contents of an application are prescribed in 21 U.S.C. 355(b) and, in pertinent part, are required to include "*full reports* of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use" (21 U.S.C. 355(b)(1) (emphasis added).) As a matter of historical fact, most NDA's have been and continue to be submitted for compounds about which extensive public information is not yet available. For such applications, the "full reports" requirement of 21 U.S.C. 355(b)(1) generally will operate to require the availability for inspection of the data underlying the reports of investigations of the safety and efficacy of the drug. As a consequence, manufacturers must generate the needed evidence of safety and effectiveness by conducting or sponsoring their own investigations. Raw data which provide the basis for the submitted reports are required to be available, and the regulations, as applied to such applications, require that such data be maintained for inspection should the FDA decide that an inspection is desirable or needed (21 CFR 314.1(c)(2)12.c.).

The accessibility of raw data is usually regarded as a necessary safeguard for reports of investigations of a new compound. In most cases information about such a new compound is limited; reports in the literature, if any, are scanty and preliminary. Consequently, FDA decisions to approve NDA's for such new compounds must be based upon reports submitted by the company. Considering the magnitude of the financial commitment to necessary studies, there is motive as well as opportunity to submit false or misleading reports favorable to the drug if raw data are not available for inspection. In addition, there is understandably a sincere hope by the companies and their investigators that a drug will be a valuable new therapy. The operation of bias that may lead interested persons to minimize adverse data and overemphasize favorable results cannot be discounted. The knowledge that the data may be checked inhibits a tendency to give effect to unconscious bias and provides an important external check on the veracity and quality of the reports that are based on such data. It is therefore the FDA's usual practice to examine pertinent raw data reports of original research sponsored by drug companies on their new compounds. (See the statement providing background information prepared by Marion J. Finkel, M.D., Associate Director for New Drug Evaluation, Bureau of Drugs, paragraph 18, filed with the FDA Dockets Management Branch as Exhibit A (hereafter referred to as "Finkel statement").

The applicable regulations also reflect the fact that most NDA's are submitted for new compounds. For example, the regulations require the submission of reports on preclinical studies (i.e., laboratory and animal studies) performed by or for new drug applicants; 21 CFR 314.1(c)(2)10.b. states:

> b. Detailed reports or preclinical investigations, including all studies made on laboratory animals, the methods used, and the results obtained should be clearly set forth. *Such information should include * * * a statement of where the investigations were conducted and where the underlying data are available for inspection.* (Emphasis added.)

Similar requirements apply to clinical investigations to show the safety and effectiveness of the drug. In pertinent part, 21 CFR 314.1(c)(2)12.c. describes the information to be submitted as follows:

> c. Reports of all clinical tests sponsored by the applicant or received or otherwise obtained by the applicant should be attached. *These reports should include adequate information concerning each subject treated with the drug or employed as a control * * * together with an opinion as to whether such effects or results are attributable to the drug under investigation and a statement of where the underlying data are available for inspection.* Ordinarily, the reports of clinical studies will not be regarded as adequate unless they include reports from more than one independent, competent investigator who maintains adequate case histories of an adequate number of subjects * * *. (Emphasis added.)

However, the new drug regulations also anticipate that NDA's may be submitted for compounds that are not entirely new discoveries. Thus, 21 CFR 314.1(c)(2)10.d. requires the submission of:

* * * *a list of literature references (if available) to all other preclinical information known to the applicant, whether published or unpublished,* that is pertinent to an evaluation of the safety and effectiveness of the drug. (Emphasis added.)

Similarly, 21 CFR 314.1(c)(2)12.3. requires the submission of:

e. All information pertinent to an evaluation of the safety and effectiveness of the drug received or otherwise obtained by the applicant from any source, including information derived from other investigations or commercial marketing * * *, or *reports in the scientific literature,* involving the drug that is the subject of the application and related drugs * * *. (Emphasis added.)

While FDA usually examines pertinent raw data underlying reports of original research sponsored by drug companies on their new compounds, only in a very rare instance would all raw data be submitted to or reviewed by FDA. Complex studies in large patient populations produce tens of thousands of pieces of raw data in the form of laboratory reports, patient diaries, physical examination reports, drug dispensing records, and numerous other records. The agency does not request manufacturers to submit all raw data in their NDA filings, but requires that such data and records be maintained available for inspection. (See Finkel statement, paragraph 18.)

IV. FDA's Reliance on Published Literature To Satisfy the "Full Reports" Requirement of the Act

In contrast to FDA's requirement for the availability of raw data for studies on new compounds, FDA has for decades relied on published reports—for which raw data are not usually available—of adequate and well-controlled clinical investigations from the scientific literature. FDA has relied on such reports as "substantial evidence" of a drug product's safety and effectiveness and as "full reports" of such investigations, as required by 21 U.S.C. 355(b) and 21 CFR 314.1(c)(2)12.c. (See Finkel statement, paragraphs 20–27.) This policy reflects the agency's recognition of the reliability of a group of independently published reports of adequate and well-controlled studies, all of which reach consistent conclusions about the safety and effectiveness of a drug. (See Finkel statement, paragraph 17.) The reports are often subject to peer review prior to publication, and all published reports are potentially subject to widespread critical review after publication. Other researchers may initiate studies to confirm reported findings. Through this process, which rarely involves the scrutiny of raw data by a researcher's peers, reported scientific observations are challenged, retested, and confirmed or rejected. Thus, the verification of published reports of research is not accomplished through the examination of raw data but rather through public exposure of the results of retesting by others engaged in similar research. (See statement of Mortimer B. Lipsett, M.D., filed with the FDA Dockets Management Branch as Exhibit B, paragraphs 14–16, 18, 20–21 (hereafter "Lipsett statement").) The validity of this verification process is also demonstrated by the requirement of some countries that studies must have been accepted for publication in an approved scientific journal before they may be considered in support of a new drug application. (See, e.g., *Pharmaceutical Administration in Japan,* 2d ed. p. 19 (1980), filed with the FDA Dockets Management Branch as Exhibit C.)

As discussed below, FDA's reliance on published reports to satify the "full reports" requirement of 21 U.S.C. 355(b) is illustrated by FDA's practice of relying on such reports in the review of pre-1962 drugs for effectiveness, the approval of new indicates and labeling changes for marketed drugs, the approval of some pioneer NDA's and the approval of duplicate drug products of post-1962 drugs.

A. Abbreviated New Drug Applications for Generic Formulations of DESI Drugs

Ater Congress amended the act in 1962 to require that new drugs be shown to be effective as well as safe, FDA was faced with the task of reviewing over 4,000 drug formulations and 20,000 products to determine whether they were effective for the indications in their labeling. Because FDA lacked the resources needed to accomplish this task on its own, it obtained the assistance of the National Academy of Sciences/National Research Council (NAS/NRC). The NAS/NRC reviewed, among other things, the publicly available studies on each of these drugs; under the guidelines established by the NAS/NRC, the effectiveness review specifically considered published reports in the literature. (See *Pharmaceutical Manufacturers Assn.* v. *Finich,* 307 F. Supp. 858, 864 (D. Del. 1970).) The NAS/NRC advised FDA of its conclusions, which, for the most part, the agency adopted as part of its Drug Efficacy Study Implementation (DESI) program.

In the course of the DESI review the agency modified its new drug application requirements for generic formulations of drugs that were reviewed by the NAS/NRC and were found to be effective. Under the modified requirements, NDA's for generic versions of these pre-1962 drugs may be abbreviated when the efficacy criteria have been satisfied through the DESI review. Such abbreviated new drug applications (ANDA's) are not required to contain any safety and effectiveness data other than the bioavailability studies, when specifically required by FDA. (See 21 CFR 314.1(f); Finkel statement, paragraph 27.)

The rationale underlying ANDA's for generic versions of pre-1962 drugs that were found to be effective in the DESI review is that basic preclinical and clinical testing of every product of the same drug is unwarranted. When it is well established that a drug is safe and effective for a particular use, there is no reason to conduct more tests in animals and humans to show that the same active drug compound contained in another manufacturer's product is safe and effective for the same use. It is common knowledge in the prescription drug industry that a widely prescribed nonpatented drug may be marketed by many different firms. Thus, a requirement for duplicative testing could require that many firms conduct repetitive, scientifically unnecessary and ethically questionable human drug experiments. Once the safety and effectiveness of the drug for a particualr use is established, the important question is not whether a second manufacturer can establish *de novo* the safety and effectiveness of the drug, but whether that manufacturer can produce a finished drug product that will be as safe and effective as the first approved ("pioneer") drug product. FDA requires that all the information and data to answer this question be contained in the ANDA. The applicant's facilities, processes, methods, equipment and controls used to manufacture the product are described in the ANDA. The manufacturer and its suppliers are subject to FDA inspection to determine whether they have maintained and can continue to maintain the standards necessary to ensure product purity and quality. (See Finkel statement, paragraph 12(b)–(d).)

For some products, no further information is needed. Once it is determined that all ingredients to be used meet pharmaceutical specifications and that the inactive ingredients are compatible with the active ingredient, it may in some cases be concluded that the product is the equivalent of the pioneer drug. In other cases, it is necessary to require the applicant to conduct bioavailability studies in which the proposed generic is compared to the

pioneer drug. If the studies show bioequivalence, the two products are regarded as of comparable safety and effectiveness. (See Finkel statement, paragraph 24.)

Apart from FDA's ability to rely upon bioequivalence as a ground for approving a product as safe and effective, additional preclinical and clinical studies of ANDA products are unwarranted for other reasons. Scientific resources now available to test promising new compounds and to explore new uses for marketed drugs would be diverted to conducting studies on drugs that have already been fully tested. Unnecessary human testing also presents ethical problems when ill patients are subjected to rigors of closely controlled clinical trials.

As Dr. Finkel reports in her statement, paragraph 27, since 1969 FDA has evaluated 2, 165 pre-1962 products formulations as effective. Manufacturers have submitted 4,708 ANDA's covering generic versions of these formulations. PMA member companies filed 1,035 ANDA's; 715 of these applications have been approved. In none of these applications have the companies been required to perform duplicative clinical testing. For each applicant to have been required to conduct individual clinical tests in support of each of these applications would have been wasteful of scientific resources.

B. Approval of Pioneer New Drug Applications and New Uses and Labeling Changes for Marketed Drugs

In addition to DESI drugs, FDA has in some cases based its approval of pioneer NDA's on published reports supplemented by studies done by the manufacturers. In these instances, the agency determined that studies could be verified as acceptable on a basis that did not include the submission of raw data to the extent ordinarily required under 21 U.S.C. 355(b). For example, the petitioner Hoffmann-La Roche received approval in 1974 for an NDA for sodium nitroprusside largely, though not entirely, on the strength of published reports. The company did limited preclinical studies to provide information on issues not addressed in the published literature and a small clinical trial to confirm that its formulation containing sodium nitroprusside produced clinical effects consistent with those from other formulations discussed in the literature. The published reports in the literature were critical to the approval of the NDA. (See Finkel statement, paragraph 21.) Another example of the approval of a pioneer NDA is Abbott Laboratores' sodium valproate, approved largely on the basis of clinical studies reported in the literature. As the Finkel statement explains in paragraph 21, the studies performed by the sponsor and reported to FDA with "raw data" would have been inadequate in themselves to permit approval.

Dr. Finkel's statement, paragraph 21(a)-(g), describes a number of other examples of NDA approvals based largely on reports from the published literature:

1. The approval of a combination of propranolol and hydrochlorothiazide (Indride, Ayerst) was based wholly on data in the literature as well as the long history in the marketplace of the combined use of the two agents.

2. The approval of the NDA for bretylium tosylate (Bretylol, Arnar-Stone) was based on four studies, two of which were reports from the literature for which case reports were not filed.

3. The approval of methyltyrosine (Demser, Merck) was based almost entirely on several reports in the literature. In this instance FDA agreed in advance of the NDA filing in 1975 that the literature reports were considered an acceptable basis for the submission of the NDA at that time under those particular circumstances.

4. The approval of two NDA's for potassium iodide (Thyro-block, Carter-Wallace) for use as a thyroid-blocking agent in nuclear emergencies was based upon published literature cited by the FDA in the Federal Register of December 15, 1978 (43 FR 58798). The literature reports were regarded as providing substantial evidence of safety and effectiveness of the drug for the proposed indications.

5. The approval of two NDA's for somatropin (Ascellacrin, Calbio Pharmaceuticals and Crescormon, Kabi Group) for pituitary dwarfism was based almost exclusively on reports from the published literature.

6. The NDA for xylose (Xylo-pfan, Pfanstiehl), a drug for use as a diagnostic test for intestinal absorption, was approved exclusively on the basis of published literature.

7. The approvals of 33 NDA's for radioactive drugs listed at 21 CFR 310.503 were each based upon published reports supporting the safety and effectiveness of the drugs. As Dr. Finkel's statement points out at paragraph 21(g), a number of these approvals were granted to member companies of the PMA.

The petitioners attempt to dismiss these approvals as a "mere handful of isolated and inappropriate cases gathered together in a post hoc rationalization" of the July 31 staff memorandum (Pet. 42 n. 14). However, they are not presented to "rationalize" FDA's reliance on published reports in the approval of NDA's. Rather, these examples show that FDA has relied on published reports as the main supporting data, and in some instances as the entire support, for demonstrating a drug's safety and effectiveness for NDA approval.

In addition to the pioneer NDA's described above, FDA has for decades permitted the conditions of approval for drugs marketed under NDA's to be revised on the basis of reports in the literature; new warnings, side effects information, contraindications and dosage directions have been added on the basis of such reports. (See Finkel statement, paragraph 20.) When independent investigators have published reports of studies on marketed drugs that prove the safety and effectiveness of new drug uses, FDA has accepted such reports as the basis for approving addition of those uses to the drug's labeling. In her statement, Dr. Finkel includes three examples in which NDA supplements for new uses were approved between 1971 and 1973 on the basis of reports in the published literature. *Id.* These approvals, together with the requirements of the NDA regulations and other instances in which FDA has relied on published reports, reflect the scope of the agency's long-standing policy of reliance on published reports for demonstrating a drug's safety and effectiveness in the approval of NDA's.

C. New Drug Applications for Generic Formulations of Post-1962 Drugs

For generic formulations of post-1962 drugs, the ANDA concept, as applicable to pre-1962 drugs evaluated in the DESI program, has not yet been made available, and the lawful marketing of such drugs therefore requires the approval of full NDA's. However, the agency has recognized that there are a number of post-1962 drugs for which the number and quality of literature reports are such that the safety and effectiveness of the generic versions of such drugs may be established on the basis of the published reports. In response to inquires concerning the feasibility of literature-supported NDA's for such generic products, the FDA has advised prospective new drug applicants that literature reports could be relied upon to the extent that they were reliable and described adequate and well-controlled investigations of the drug. Even when not specifically asked about literature reports, FDA has advised firms that use of published (and unpublished) reports was acceptable. (See Finkel statement, paragraph 31;

exhibits 17 and 18 attached to the petition.)

As Dr. Finkel's statement explains at paragraph 36, the increasing frequency of inquiries from firms wishing to market generic versions of post-1962 drugs led to her preparation of the July 31 staff memorandum as a means of guiding her staff in reponding consistently to inquiries about the policy reviewed in the memorandum and its application to post-1962 generic drug products. The memorandum was not prepared because it addressed a new policy, but because questions could arise in applying the policy. The memorandum acknowledges that data in the pioneer NDA cannot now be used to support an NDA for a generic version of the pioneer product, but advises that published reports can be used as the "main supporting documentation for safety and effectiveness," and, if inadequate, "selected preclinical and perhaps additional clinical studies may be required of the new sponsor prior to NDA approval." In addition, Attachments A and B to the July 31 staff memorandum specify that the literature-supported NDA is required to comply fully with applicable FDA regulations such as those requiring full manufacturing and controls information.

Although data and reports in the pioneer NDA are not now used as support for the duplicative product's NDA, FDA does refer to the pioneer NDA to determine whether the results reported in the published literature are consistent with what is known about the active drug compound common to both products. If the results in a published report deviated significantly from data in the NDA, that study may or may not be considered "adequate." Thus, the data in the file for the pioneer NDA could be used to deny approval of the subsequent product, but not to support such approval. As Dr. Finkel has noted in her statement, FDA scientists have an obligation to use all information available to them in evaluating NDA's. Although the information from the pioneer NDA is not used to provide critical information missing from the published literature, it cannot be ignored in the evaluation of published reports of clinical studies. (See Finkel statement, paragraph 30.)

In accord with the policy stated in the July 31 staff memorandum, FDA on January 9, 1979, approved a paper NDA submitted by IMS Ltd. for Furosemide injection—the first post-1962 generic drug product approved on the basis of a so-called paper NDA submission. The agency's analysis of the published literature supporting the IMS NDA approval is set out in the Summary Basis of Approval, which is attached to the Finkel statement. In addition to the IMS NDA, the agency has received at least 45 literature-supported NDA's for duplicate drug products of post-1962 drugs. Several were filed by member companies of the PMA. (See Finkel statement paragraph 32.) Pending the stay that has been in effect while the petition was under review, no additional approvals have been issued.

IV. Commissioner's Response to Petitioners' Arguments

The petition requests that the agency implement the guidance set forth in the July 31 staff memorandum, if it is implemented at all, only after it is published in the Federal Register as a proposal subject to notice and opportunity for comment as required, petitioners contend, by FDA regulations (21 CFR 10.40) and the Administrative Procedure Act (5 U.S.C. 553). Petitioners contend that the July 31 staff memorandum reflects a significant departure from prior agency policy and that notice and comment is particularly important because the memorandum raises public policy issues that could adversely affect research and development of new drug compounds by discouraging pioneer drug research and by discouraging the publication of the results of studies on new drugs.

The purpose of a notice-and-comment rulemaking procedure is to give interested persons, particularly those who would be subject to a rule, an opporutunity to participate in the rulemaking by submitting to an agency comments on the potential new rule published in the Federal Register in proposed form. In its decision in *Hoffmann-La Roche* v. *Harris*, 484 F. Supp. 58, 64–65 (D.D.C. 1979), the lawsuit that preceded this petition, the court noted that the record before it reflected some consideration within the FDA staff about the advisability and legal necessity of notice and comment procedure with respect to the July 31 staff memorandum. But the court pointed out that the staff consideration "never culminated in any focused decision by the FDA Commissioner as to whether the matter should be submitted to the rule-making process." On the basis of my consideration of the petition and the record accompanying this response, I have concluded that the guidance contained in the July 31 staff memorandum is not a "new rule," but instead reflects longstanding practice and interpretation that is well known to the petitioners and to the drug industry generally and that it does not require rulemaking procedures for application to generic formulations of post-1962 drugs.

A. Petitioners' Contention That the Staff Memorandum Establishes A Significant New Rule

The petitioners contend that the July 31 staff memorandum (Pet. Ex. 1) constitutes a radical departure from past FDA policy that substantially modified the requirements for submission of NDA's because for the first time FDA stated its willingness to accept published reports rather than require original research. Petitioners contend (Pet. 4) that it was understood by the industry that a manufacturer of a generic verison of a post-1962 drug could obtain full NDA approval only by performing or contracting for the performance of its own clinical testing. I have found that these contentions are not factually accurate.

1. *FDA's reliance on published reports.* FDA's willingness to accept published reports in the literature in place of original research in satisfaction of the "full reports" requirement for NDA's is well established as evidenced by the approval of NDA's dated from 1971. (See Finkel statement, paragraphs 20–21.) This interpretation of the statute and regulations as applied to particular NDA's, including NDA's for generic versions of post-1962 drugs for which one or more NDA's have been approved, is not a new rule; rather, it is the application of an already established interpretation. The July 31 staff memorandum was intended to provide guidance to the various division directors in the Bureau of Drugs in response to the increasing frequency of the submission of NDA's for generic versions of post-1962 drugs. (See Finkel statement, paragraphs 28–37.) It was no more than a continuation of FDA's policy in many other contexts to accept published reports in lieu of original research. *Id.* paragraphs 20–26.

A number of examples illustrate that the agency considered the policy applicable to generic versions of post-1962 drugs before the July 31 staff memorandum was circulated. In response to an October 1975 inquiry, the agency advised in a letter dated January 13, 1976 (Pet. Ex. 18) that to obtain approval of a generic version of a post-1962 drug for which an NDA had been approved the requirements of an NDA set forth in 21 CFR 314.1(c)(2) must be met, and, in appropriate cases, the Bureau of Drugs has accepted references to published or otherwise public records in lieu of newly generated data. The letter therefore indicated the agency's willingness to accept published reports in the context of NDA's submitted for

generic versions of post-1962 drug products. In addition, the application for the only approved paper NDA, furosemide injection, was submitted on April 21, 1977, more than a year before the July 31 (1978) staff memorandum was circulated. (See Finkel statement, paragraph 15.)

Moreover, FDA's practice of accepting detailed reports from the literature was known to the industry. The practice was discussed in the Federal Register of April 29, 1977 (45 FR 21847) in connection with a proposal to refuse approval of certain NDA's on the ground that they contained inadequate evidence of drug safety and effectiveness. The applicants had contended that the safety and effectiveness of the active ingredients in their products were so will established that ANDA's, in which basic safety and effectiveness data need not be included, should be accepted. The FDA rejected this argument (among other reasons, because the agency has not made a finding that an ANDA would be sufficient for the products) and explained:

> Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. *The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission.* 42 FR at 21852. (Emphasis added.)

On September 8, 1977, then PMA President C. Joseph Stetler wrote to Dr. J. Richard Crout, Director of the Bureau of Drugs, concerning "differing regulatory treatment of manufacturers of new drugs." (See letter filed with FDA Dockets Management Branch as Exhibit D.)

In his letter, Mr. Stetler argued that the statute "requires that reported investigations be undertaken by or on behalf of the sponsor of the application." *Id.*, p. 2. He explained his position as follows:

> * * * In addition to indicating a failure by FDA to enforce the clear demand of the new drug provisions of the Act, the process described could result in unequal and arbitrary burdens for some applicants which are not imposed on others. Thus, the first NDA applicant must conduct adequate and will controlled preclinical and clinical studies which satisfy statutory requirements. A later application would be permitted to rely on published studies and still receive a full NDA (although there is no discussion as to the time span or the quality and quantity of the published data). Clearly these are unequal obstacles to NDA Approval, yet each successful applicant would receive the traditional full NDA. *Id.*, p. 2.

Notwithstanding the initial statements in his letter, Mr. Stetler concluded:

> The industry and the scientific community have agreed for some time that complete and *exact* duplication of data should not be required of a second manufacturer with respect to a product that has been on the market for some time. It is agreed that such a rigid requirement would be unnecessary and a wasteful duplication of scientific resources. The objective of ensuring that there are no important differences between the original product and subsequent similar products and that the intent of the Act is satisfied, could be met by developing data which is significantly less than that required for an NDA but more than FDA now frequently requires.
>
> Therefore, PMA agrees with the Agency's objective of eliminating *unnecessary* animal and human experimentation and avoiding *unnecessary* duplication of scientific resources. However, companies which market new drugs *should be required* to document, according to the demands of the Act the company's ability to produce safe and effective drug products of acceptable quality. *Id.*, p. 4 (Emphasis in original).

In his response, Dr. Crout noted that there had been a number of NDA approvals "with published literature serving as the sole or major evidence to support approval." (See letter filed with FDA's Dockets Management Branch as Exhibit E., p. 2.) After citing some examples, he wrote:

> * * * Because many PMA members have received approvals of "full" NDA's on the basis of published reports, and because of PMA's professed opposition to unnecessary scientific research, it is somewhat surprising that PMA objects to reliance on scientific literature for approval of a drug product for marketing. *Id.*

Dr. Crout concluded:

> * * * Section 505 requires that (1) reports of studies on safety and efficacy be submitted (§ 505(b)(1)) and (2) these investigations (i) include "adequate tests by all methods reasonably applicable to show whether or not such drug is safe" (§ 505(d)(1)), (ii) provide sufficient "information to determine whether such drug is safe" (§ 505(d)(4)), and (iii) provide "substantial evidence that the drug will have the effect it purports or is represented to have * * *" (§ 505(d)(5)). *The statute neither suggests that the applicant must conduct any of these investigations nor excludes consideration of studies presented in the published literature.*
>
> If you have any documentation to support PMA's contrary view of the law, we would be quite interested in reviewing it. *Until such time, FDA will adhere to its past and present policy of considering for approval, and in appropriate cases approving, NDA's for drugs, the safety and effectiveness of which is demonstrated by published scientific literature. Id.*, p. 4. (Emphasis added.)

2. *Petitioners' arguments based on statements of FDA officials and congressional testimony.* The petitioners have collected statements of FDA officials and congressional testimony that they contend support their contention that the July 31 staff memorandum reflected a significant change in regulatory policy. These appear in such documents as internal FDA memoranda, Federal Register documents, and the Congressional Record. I have reviewed the statements cited by the petitioners with consideration for their context and the time that they were made and have concluded, as explained in detail below, that the statements, individually and collectively, do not support the propositions for which they are cited.

Petitioners refer to a memorandum describing an April 24, 1979, conference between FDA officials and IMS, the first manufacturer to obtain a paper NDA approval (Pet. Ex. 2, p. 3). The memorandum states in pertinent part:

> Dr. Crout [Director, Bureau of Drugs] and Dr. Temple [Director, Division of Cardio-Renal Drug Products] explained that the furosemide approval took unusually long because it involved a *significant new step for the agency. It was our first approval of a post-'62 drug entirely on the basis of reports in the literature (a 'paper NDA').* Because of its precedential implications, that decision required participation by more people in the agency. Dr. Crout pointed out that the agency exposed itself to controversy, and, possibly, litigation with IMS' competitors by granting that approval. (Emphasis supplied.)

The underlying statements are accurate, but do not establish that a significant regulatory change occurred when the July 31 staff memorandum was issued. The IMS furosemide approval was a new step, not a reflection of a new policy. The step was an approval of a generic version of a post-1962 pioneer drug, not as in the past, an approval of the pioneer drug itself, and the approval was "entirely" on the basis of published reports. It was "significant" because, in view of the known concern among some members of the industry regarding their competitive advantages, the approval was likely to be closely scrutinized, perhaps challenged in litigation.

The petitioners also refer to a memorandum of Dr. Robert Temple, Director, Division of Cardio-Renal Drug Products, analyzing a pending paper NDA for dopamine hydrochloride (Pet. 10; Pet. Ex. 3, at 1–2). The memorandum, as quoted by petitioners, states:

> It would be *possible* to conclude that the literature never can provide substantial evidence of effectiveness because it is never sufficiently detailed. As Dr. Dunham notes: 'in their published form, by editorial and

journalistic necessity [studies fail] to contain details of materials and methods and original data whereby the study might be independently validated * * *.' *Dr. Dunham felt policy decisions were needed before the Division could make this choice. Since the memo was written, however, such a policy statement has been developed. Dr. Marion Finkel's memor of July 31, 1978 makes it clear that FDA will approve me-too drugs on the basis of well-controlled studies in the literature.* (Emphasis supplied in part by petitioners.)

The statements emphasized, however, do not establish that the July 31 memorandum represents a new policy that requires notice and comment procedure to implement. The observation attributed to Dr. Dunham that a published report does not include sufficient detail to permit its independent validation on the basis of the raw data associated with the study reported is correct. As discussed above, however, validation of published scientific reports is customarily accomplished in ways other than through the examination of the raw data underlying the reported study. The statement attributed to Dr. Dunham that policy decisions were needed reflects a need for administrative guidance that the July 31 staff memorandum was intended to satisfy. Dr. Temple's reference to the July 31 staff memorandum as a "policy statement" does not mean that the memorandum states "new" policy. It simply refers to the July 31 staff memorandum as a policy statement, which it is in a general sense, although it is one that reflects the longstanding policy to rely on published reports of studies in the NDA approval process to the extent that the published reports are adequate. Thus, though the statement (July 31 staff memorandum) may have been new, the policy was not new.

Turning to the act and its implementing regulations (Pet. 12–13), the petitioners point out that an NDA covers a particular product and is personal to the manufacturer that files it, citing *USV Pharmaceutical Corp.* v. *Weinberger*, 412 U.S. 655, 664 (1973). The agency, of course, agrees. Petitioners also argue that the FDA has consistently recognized that the information contained in a manufacturer's NDA file is trade secret data that may not be publicly disclosed or used to support a NDA of another applicant without the express permission of the original NDA holder. That issue is not relevant here, for paper NDA's are based on published literature. Petitioners first contend that statutory and regulatory requirements have had the practical effect of requiring manufacturers wishing to market generic versions of post-1962 drugs to conduct their own tests of safety and efficacy. They also contend that, prior to the July 31 staff memorandum, it was understood by both the agency and the industry that such testing was required. The agency does not agree with either contention.

The language of the Federal Register statement (39 FR 44634; December 24, 1974) relied on by petitioners contradicts their contention (Pet. 18–19). There, the agency stated, in response to a request that safety and effectiveness reports and data in NDAs be released upon approval of the applications, that the reports and data were protected from disclosure and that an abrogation of that protection required congressional action. At the same time, FDA noted that if the reports were available to the public they could be used to support approval of a competitor's NDA for a generic drug:

> If a manufacturer's safety and effectiveness data are to be released upon request, thus permitting [generic versions] drugs to be marketed immediately, it is entirely possible that the incentive for private pharmaceutical research will be adversely affected. 39 FR 44634.

The statement accurately reflects the state of existing law. Reports in NDA's can be used by anyone to obtain NDA approval of an identical product once those reports are in the public domain. The fact the person using the reports has not conducted the studies and does not have the raw data does not diminish their value as a basis to obtain marketing approval for a competitive product. The value of published reports of well-controlled studies is likewise not diminished merely because the company relying on the reports did not conduct the studies or does not have the raw data. (See Lipsett statement, paragraphs 22–26.)

The petitioners similarly contend (Pet. 14–22) that their position that the July 31 staff memorandum reflects a new policy is supported by the record of FDA's consideration of possible modifications in requirements for NDA'a for duplicate drug products. An examination of the records cited by petitioners belies their contention. For example, petitioners argue (Pet. 14–15) that the possibility that paper NDA's might be permitted was recognize as a change in regulatory policy, quoting a statement of the Director of the Bureau of Drugs that:

> I think we must recognize that the principles stated are a departure from past policies, or at least seem to depart from our *stated* past policies which have emphasized a need for raw data in support of clinical trials and full animal toxicology as part of a full NDA. In short, we have had 'full NDA's' and ANDA's but we have really not had anything in between, at least as a matter of policy. (Pet. Ex. 4, 1) (Emphasis in original.)

The petitioners also assert that the memorandum (Pet. Ex. 4) from which the quoted statement was taken establishes that it was the Bureau Director's position that "regulations" would be necessary to implement a paper NDA policy for post-1962 generic drugs. However, and examination of the entire memorandum shows the context in which the quoted statements appear and makes it quite clear that the Bureau Director was not advocationg notice-and-comment rulemaking; in the fact, his recommendation goes no further than the consideration of the publication of a statement of policy to explain the requirements for NDA approval generally.

In reviewing other similar statements quoted by the petitioners, I find that they do not support the petitioners' contention (Pet. 17) that there was a "consistent view within the agency * * * that any change in the requirements for NDA's was a matter for rule-making." Agency memoranda do reflect ongoing consideration of a variety of possible procedures for the agency's approval for marketing of post-1962 generic drugs, for example, the institution of a monograph system or and ANDA system. But I do not regard these memoranda as advocating that rulemaking was necessary or desirable for the agency merely to permit the already existing paper NDA policy to be applied to post-1962 generic drugs products as it had been applied to pioneer NDA's. Some confusion may be traced to staff recommendations concerning the desirability of publicizing the potential applicability of the paper NDA policy to post-1962 generic drug products. Of course, publicizing and rulemaking are not at all synonymous. In any event, even if an individual opinion that rulemaking was required had been advanced within the agency, it would have occured at a preliminary stage in the decisionmaking process, and it has now been superseded by my analysis and decision contained in this notice.

The statements quoted by the petitioners from Federal Register documents also fail to establish that rulemaking is required. For example, petitioners refer (Pet. 18) to a Federal Register document (39 FR 44634; December 24, 1974), which included a response to a comment that the information in one manufacturer's NDA file should be available to other manufacturers, thereby relieving them of the responsibililty for conducting or

relying on their own studies. However, the agency's response, as quoted at page 18 of the petition, related solely to the "release of such information." The response is, therefore, irrelevant to the paper NDA policy which does not involve the disclosure of information, but relies on data that have been disclosed through publication in the scientific literature.

Petitioners also refer (Pet. 19) to a statement published in the Federal Register which advised that a generic company must do its own safety and effectiveness testing to market an approved drug. That statement is accurate when reports of investigations on the pioneer products are not available to a potential follow-on manufacturer, and the published literature about the drug is insufficient to satisfy the paper NDA policy. As pointed out above, the generic applicant cannot now, without the NDA holder's permission, reference the data in the pioneer manufacturer's NDA. While it is true that legislation has been proposed that would, as the petitioners point out (Pet. 20–22), modify the "full reports" requirement of section 505 of the act (21 U.S.C. 355), that is irrelevant to the issues raised by the petition, because NDA's supported by adequate reports of studies from the published literature satisfy the "full reports" requirement.

Petitioners quote the testimony of Senators Schweiker and Kennedy in support of their contention that published reports do not meet the "full reports" requirement of section 505 of the act (Pet. 21). In context, however, Senator Schweiker's remarks did not suggest that published literature reports are inappropriate under the present statute. The Senator's full remarks show that he was referring to a provision in a pending bill that would authorize manufacturers of generic drugs to obtain NDA approval without filing *any* reports whatsoever dealing with safety or efficacy:

> As a matter of legislative history, I would like to return to the duplicate testing question for a minute. The bill sets up an abbreviated application procedure, after seven years, for subsequent manufacturers of approved drugs I think it is very clear that *the committee bill intends that this section be used as the primary procedure under which FDA is authorized to waive the requirements of section 505(b)(1)* that drug sponsors submit full reports (or comprehensive summaries) or original full safety and effectiveness tests in support of their products, as opposed, for example, to published literature reports. I ask Senator Kennedy if that is his understanding of the bill. Mr Kennedy: Yes, Mr. President, it is my understanding. (Emphasis added.) 125 Cong. Rec. S13469 (Daily ed. Sept. 26, 1979).

According to our understanding of the quoted remarks, the legislation, if enacted, would be intended to dispense with the present and obviously acknowledged system of literature-supported NDA's for generic drugs. Thus, Senator Schweiker was acknowledging the current practice of relying on published reports and did not question its lawfulness. In any event, the legislative history of pending legislation does not provide any authoritative guidance in interpreting the provisions of the current law. *National confectioners Assn.* v. *Califano*, 569 F.2d 690, 693 (D.C. Cir. 1978).

In further support of their contention that the July 31 staff memorandum establishes a significant new rule, the petitioners suggest (Pet. 22–23) that the circulation of the memorandum lacked the concurrence of other Bureau of Drugs officials. However, the agency documents relied on by the petitioners establish that the Director of the Bureau of Drugs concurred in the circulation of the July 31 staff memorandum to staff personnel (Pet. Ex. 10, at 1). The suggestion of Bureau officials, referred to by the petitioners (Pet. 23), that the instructions contained in the July 31 staff memorandum be published, was not inconsistent with the distribution of that memorandum intramurally to staff personnel (see Pet. Ex. 10, at 1–2; Ex. 12; Ex. 11, at 2). Thus, the internal circulation of the July 31 staff memorandum was not contrary to the comments of other Bureau officials, as the petitioners contend (Pet. 23). The circulation of the July 31 staff memorandum did not, as the petitioners contend (Pet. 24), eliminate the "requirements" of 21 CFR Part 314 for detailed patient information and the availability of raw data, because there is not an absolute requirement that such information be available for each NDA. (See discussion in section C *infra*.)

I have concluded that the construction of the regulations governing NDA's implicit in the July 31 staff memorandum is not contradicted by statements of agency officials cited by the petitioners (Pet. 25–26). Petitioners refer to an August 1975 agency memorandum (Pet. Ex. 15, at 2) discussing the requirements for NDA's for post-1962 drugs that included the statement that "literature, if relied upon, must be verifiable through hard data in the same way as any other study." However, that statement, in context, does not support the petitioners' position. The statement recognizes that literature must be verifiable and refers to "hard data" as the basis for such verification. But the statement does not analyze the issue in detail nor purport to support the proposition advanced by the petitioners that the agency's relinance on published reports requires the availability of every piece of paper that may be regarded as "raw data." Likewise, references to statements from a January 1976 letter (Pet. Ex. 17, at 2) and a February, 1976 letter (Pet. Ex. 18, at 3) also fail to present a detailed analysis of the verifiability of reports in the published literature. The statements of former Commissioner Kennedy cited by the petitioners (Pet. 25 n. 12) are not germane to the question whether FDA properly may rely on reports from the literature in the NDA approval process. As is apparent from their context, those statements relate to the question whether summaries of data, as required by pending legislation, would be adequate for the evaluation of NDA's for new compounds. (See Pet. Ex. 16.) The statements do not relate to NDA's for generic versions of approved drugs.

If the statements relied on by the petitioners are understood to mean that the agency cannot rely on published reports in the new drug evaluation process without the submission of the raw data underlying the reports, the statements did not reflect the agency's longstanding practice at the time the statements were made. In addition, as explained above, the statements referred to by the petitioners, if understood from the point of view advocated by the petitioners, are not consistent with the requirements of the regulations governing drug investigations and the contents of NDA's. Accordingly, I have concluded that the statements do not support the petitioners' conclusion (Pet. 26) that the Bureau recognized that the data underlying published reports would almost never be available and decided simply to dispense with that requirement. In point of fact, there was, and is, no "requirement" for the availability of the data underlying published reports relied on by the agency in the NDA approval process and there was, therefore, no such "requirement" to be dispensed with. (See Finkel statement, paragraph 18.)

3. *Rulemaking requirements of the Administrative Procedure Act.* The petitioners contend (Pet. 6) that the paper NDA policy could not properly be implemented without notice-and-comment rulemaking required by section 4 of the Administrative Procedure Act, 5 U.S.C. 553, and by FDA's own procedural regulations, 21 CFR 10.40. In support of this contention, the petitioners cite instances in which the agency has followed that procedure (Pet.

38–39). However, those examples are irrelevant here because, as explained above, the paper NDA policy is not, as petitioners argue, a "new" policy. Since the paper NDA policy does not represent either new policy or a "change" in policy, I have concluded that the petitioners have failed to establish that notice-and-comment rulemaking is required as a matter of law (Pet. 30–46).

The Administrative Procedure Act does require, as petitioners point out (Pet. 40), notice-and-comment procedure for rulemaking, 5 U.S.C. 553. However, 5 U.S.C. 553(b)(A) specifically exempts from notice-and-comment rulemaking "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." In deciding the case that led to this petition, the court observed that the July 31 staff "memorandum more nearly resembles a general policy [statement] than the rules at issue in other cases," citing, *Guardian Federal Savings and Loan Assn.* v. *Federal Savings and Loan Insurance Corp.*, 589 F. 2d 658, 669 (D.C. Cir. 1978). *Hoffmann-La Roche, Inc.* v. *Harris*, supra, 484 F. Supp. at 64. In *Guardian*, the court explained that:

> The term "general statements of policy," has been explicated in the Attorney General's Manual as embracing "statements issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power." * * * a critical test of whether a rule is a general statement of policy is its practical effect in a subsequent administrative proceeding: "A general statement of policy * * * does not establish a 'binding norm.' It is not finally determinative of the issues or rights to which it is addressed." *Pacific Gas and Electric Co.* v. *FPC*, 506 F. 2d 33, 38 (D.C. Cir. 1974). (Footnote omitted).

Decisions in subsequent cases have reaffirmed the continuing validity of the principles stated in *Guardian* and *Pacific Gas*. (See *Batterton* v. *Marshall*, No. 78–1414 (D.C. Cir. August 28, 1980); *Chamber of Commerce of the United States* v. *OSHA*, No. 78–2221, slip. op at 8 n.4 (D.C. Cir. July 10, 1980); *Regular Common Carrier Conf.* v. *United States*, 627 F.2d 248 (D.C. Cir. 1980); *American Bus Assn.* v. *United States*, 627 F.2d 525 (D.C. Cir. 1980).) These decisions identify two attributes of an agency action that are determinative of its character as a statement of policy: (1) It acts prospectively in that it merely announces the agency's future intention; and (2) it preserves the agency's administrative discretion.

Under the policy explained by the July 31 staff memorandum the agency retains the full range of discretion available to it under section 505 of the act. The policy is also consistent with the regulations governing NDA's, 21 CFR 314.1, and it retains the full range of discretion available to the agency under those regulations. The July 31 staff memorandum does not bind the agency to rely on the report of any particular study—whether the report is published or unpublished—without the availability or the underlying raw data. The discretionary determination whether access to the raw data for any particular report is required will be made by the agency upon its review of the reports submitted in support of an NDA. The July 31 staff memorandum does not bind the agency to approve any literature supported NDA; it simply advises that published reports will be accepted in the sense that they may be relied on to provide the safety and effectiveness data to support an NDA. However, the July 31 staff memorandum recognizes that the quality of the published data may require that an applicant conduct additional preclinincal and clinical studies prior to NDA approval. Moreover, the July 31 staff memorandum specifies that published reports submitted in support of an NDA, like any other report, are required to meet other applicable criteria, in that the:

> * * * published literature [must provide] substantial evidence of effectiveness and appropriate evidence of safety for the claimed indication(s) * * * . Published reports from scientific journals should encompass papers in which adequate and well-controlled studies are described in detail. Abstracts, reviews, and anecdotal reports are not useful. * * * The compilation of published reports (preclinical and clinical) should be the major papers in the literature relating to the drug and should be "balanced" and include those demonstrating negative as well as positive findings. Each submitted paper (or unpublished report) of a clinical trial offered in support of effectiveness should be accompanied by a summary describing the protocol, the results and how the study meets 21 CFR Sec. 314.111(a)(5)(ii), i.e., the essentials of a controlled clinical investigation. (Pet. Ex. 1, p. 3).

Far from limiting the exercise of discretion, the July 31 staff memorandum identifies several determinations that require the exercise of discretion. For example, the "quality of the published data" must be evaluated; and the reports of studies must be reviewed to determine whether they are "adequate and well-controlled," whether they include the "major papers in the literature" and whether they are "balanced." To paraphrase the language of the court in *Batterton* v. *Marshall, supra*, slip. op. at 26, the July 31 staff memorandum "at issue *is* [not] a formula, and leaves * * * [wide] discretion to weigh or alter the contributing elements." (Emphasis in original.)

Similarly, the July 31 staff memorandum merely represented the agency's future intention concerning a course it expects to follow in the NDA review process. The July 31 staff memorandum does nothing more than provide guidance on the criteria to be applied in reviewing literature-supported NDA's. The application of those criteria is still required to be determined on a case-by-case basis with respect to each NDA. The July 31 staff memorandum does not itself bind the agency to approve any particular NDA, whether or not it is supported by published or unpublished reports of studies. Compare the July 31 staff memorandum with the "statement of policy" reviewed in *Regular Common Carrier Conf.* v. *United States, supra*. As the court observed in *Hoffmann-La Roche, Inc.* v. *Harris, supra* at 64, the July 31 staff memorandum:

> * * * is not by its terms determinative of any particular application. It appears to retain to FDA broad discretion to approve or to reject any particular application unsupported by "raw data."

The agency also was not required by its own regulation, 21 CFR 10.40(d), to follow notice-and-comment procedure. That regulation, which requires that the agency follow notice-and-comment procedure in adopting interpretive rules, became effective on February 24, 1977 (42 FR 4680–4719), and it obviously is not binding on interpretations made prior to that date; only the APA provisions are applicable. Because the agency's reliance on published reports in the new drug evaluation process involves a policy that was adopted long before the effective date of 21 CFR 10.40(d), as evidenced by the agency's past practice, the regulation is inapplicable to the July 31 staff memorandum even if it were held to be an interpretative rule.

B. Petitioner's Contention That Policy Considerations Require Notice and Comment Procedure

The petitioners contend (Pet. 26A) that public policy considerations compel the agency to engage in notice-and-comment procedure to implement the instructions to staff contained in the July 31 staff memorandum. However, the premise underlying this contention is the petitioners' position that the agency is "changing" the requirements for establishing the safety and efficacy of new drugs. As discussed above the July 31 staff memorandum did not "change" new drug approval requirements.

Nonetheless, I have considered the policy considerations advanced by the petitioners, and the statements of individuals filed in support, to determine whether, as a matter of sound administration, the paper NDA policy should be implemented through notice-and-comment procedure, and I have concluded that notice-and-comment procedure is not justified.

In their effort to establish that policy considerations require notice-and-comment procedure, the petitioners attempt to identify potentially serious effects on the prescription drug industry that will be produced by the "paper NDA" policy. The petitioners charge that the research and development of new drug products would be seriously jeopardized by the policy. The statements of individuals submitted in support of the allegation, when carefully analyzed, do not substantiate that broad contention. For example, many of the statements filed by the petitioners focus primarily on research concerning unpatented compounds or compounds under patents with relatively short expiration dates rather than research concerning new drugs generally. However, the petitioners do not maintain that such drugs would be the subject of more extensive research, even if the agency did not rely on published reports for any purpose in the course of the NDA approval process. The absence of any such contention is understandable, because the only certain barrier to market entry by competitors is patent protection.

Although the agency and the Department of Health and Human Services have recognized the importance of research incentives in the development of legislation for the regulation of new drugs, the petitioners' discussion of that issue in relation to pending legislation does not accurately describe the agency's position. (Pet. 34–38). The Drug Regulation Reform Act as passed by the Senate in 1979 would provide for the disclosure of certain data supporting an NDA as part of a procedure for public participation in the drug approval process coupled with a period of exclusive entitlement by the innovator to rely on the data supporting the approval. The new legislation also would authorize an abbreviated approval procedure that would enable subsequent manufacturers to rely on the data submitted by the innovator. (See S. 1075, 96th Cong. 1st Sess., passed Senate September 26, 1979, sec. 125.) Absent patent protection, however, there would be no barrier to earlier marketing by a subsequent manufacturer who independently developed adequate data and obtained NDA approval for the product prior to the end of the 7-year period. (See 125 Cong. Rec. S13465 (Daily ed. Sep. 26, 1979).) Accordingly, the quoted views of agency and department officials concerning pending new legislation are not relevant to consideration of the paper NDA policy.

The petitioners also contend that notice-and-comment procedure is needed to determine whether the paper NDA policy will affect new drug research by creating a disincentive on the part of drug companies to permit the publication of reports of research they sponsor. I have concluded that notice-and-comment procedure is not needed. First, it is well known that there already exist disincentives for the sponsors of research to permit publication, where the sponsors hope to prolong a monopoly beyond the period provided by the patent law. Even if a published report of scientific research were not sufficiently detailed to provide adequate data to support the approval of a competitor's product, enough information could still be provided to enable a competitor to conduct the investigations needed for approval at a substantial saving in cost. Thus, it is common knowledge that drug manufacturers frequently submit reports of investigations in support of drug approvals that they do not allow to be published in the medical literature.

Although petitioners focus on the potential disincentive to the publication of research that they contend the paper NDA policy will create, they entirely ignore the powerful incentives for the publication of research that are well-known to the scientific community. Scientific journals are the primary method for achieving widespread communication of developments in the field of drug research. Publication can generate further analysis and research on a product which may beneficially advance a firm's knowledge of a product, and perhaps even more significantly, it may be a vital stimulant to new or increased sales of a product. Most research scientists regard publication in scientific journals in their field as a vital component of their research function, and they highly value its role in the peer review process, in defining and developing new research methodologies, and in identifying new areas for research. (See Finkel statement, paragraph 18.) The ability of a drug firm to secure the research capability of highly skilled scientists would in many instances be compromised if it attempted to impose undue burdens upon publication. Moreover, for approved products that are already on the market and that may be of general interest in the scientific community, a firm would have no way of restricting publication of others' studies of its product undertaken subsequent to its entry into the marketplace. Thus, the publication of research on drug products, where such research has not been sponsored by a drug manufacturer, would not be affected by any potential disincentive for publication that might be created by the paper NDA policy. (See Finkel statement, paragraphs 38–39).

In evaluating this issue, I have carefully considered the statements filed by the petitioners. I share the concern expressed in those statements that incentives for new drug research and the publication of results of scientific investigations should not be diminished. But the statements do not present an analysis to support a prediction that such effects are likely to occur; the statements, essentially, express a concern that such potential effects may be associated with the implementation of the paper NDA policy. In light of FDA's prior reliance on published reports and the lack of any perceived adverse effect on the new drug evaluation process caused by such reliance, I have concluded that the mere possibility that some effect might occur is insufficient to require notice-and-comment procedure prior to the implementation of the paper NDA policy. As Dr. Finkel's statement establishes, reliance upon reports of controlled trials reported in the literature was the operative basis for the Drug Efficacy Study Implementation Program initiated in 1969. (See Finkel statement, paragraph 26.) On the basis of conclusions adopted by FDA, effectiveness determinations were announced, and FDA approved generic versions of the formulations under regulations providing for ANDA's. As pointed out above, such applications do not require the submission of any safety and effectiveness data with the exception of bioavailability data, when specifically required by FDA. In reliance upon these determinations that were based largely on the literature, member companies of the Pharmaceutical Manufacturers Association have filed 1,121 ANDA's; 659 of these applications have been approved.

For none of these applications were the companies required to perform duplicative clinical testing. Moreover, the PMA firms did not then nor do they now complain that the ANDA process for pre-1962 drugs, even though it rests on reports from the published literature, diminished their research incentives or

discouraged the publication of the results of scientific investigations.

C. Petitioners' Contention that the July 31 Staff Memorandum can be Implemented only Through Congressional Authorization

The petitioners contend (Pet. 46–49) that the paper NDA policy is unlawful and that it cannot be adopted without congressional amendment of the act. In support of this contention, the petitioners argue that reports of investigations published in the medical literature do not satisfy the requirement of section 505(b)(1) of the act for the submission of "full reports of investigations," because the published reports are not accompanied by the underlying data. I have concluded, however, that the "full reports" provision of the act does not require the availability of the raw data underlying clinical investigations except where the agency determines in its discretion in the course of the new drug evaluation process that the review of such data is needed to ensure a valid scientific determination with respect to the reports of investigations submitted in support of a particular NDA.

As pointed out above, section 505 of the act requires the filing of "full reports" and authorizes a refusal to approve an NDA if the "reports" do not show safety and effectiveness. Since the term "reports" is not defined by the act, it should be understood to have its usual meaning as a description of an event or an investigation and not the data it describes. (See, *Websters' Third International Dictionary*, p. 1925 (1961 ed.).) However, the petitioners are companies that do experimental drug research on new compounds. Their NDA's often contain reports on original research, which ordinarily cannot be verified and accepted without resort to the study data. (See Finkel statement, paragraph 18.) Such research is conducted under the exemption provision of 21 U.S.C. 355(i), which allows shipments of experimental drugs for human testing. Testing is permitted according to regulations that "may, within the discretion of the Secretary," require:

> *The establishment and maintainence of such records, and the making of such reports to the Secretary,* by the manufacturer or sponsor of the investigation of such drug, of data (including but not limited to analytical reports by investigators) obtained as the result of such investigational use of such drug, *as the Secretary finds will enable him to evaluate the safety and effectiveness of such drug in the event* of the filing of an application pursuant to subsection (b). 21 U.S.C. 355(i)(3). (Emphasis supplied.)

The regulations that govern experimental drug testing require that investigators maintain the raw data generated by the studies and make them available for inspection should the FDA decide to review them (21 CFR 312.1(a)(12)6.a.). FDA cannot require the submission of reports of raw data directly from the investigators to the agency; the reports required to be made of the investigations must be submitted to the manufacturers for inclusion in their NDA's (21 U.S.C. 355(i); 21 CFR 312.1(a)(12)6.d.).

Similarly, the regulations governing the contents of NDA's to be submitted to FDA require that "reports" are to be submitted but do not require raw data as part of the applications. (See Finkel statement, paragraph 18.) All that the applicant "should" do with respect to raw data is provide "a statement of where the underlying data are available for inspection" (21 CFR 314.1(c)(2) 10 and 12). The regulations addressing preclinical and clinical reports are divided into separate sections. Reports from the literature are required for both preclinical and clinical investigations; for such reports, NDA sponsors are not required to specify the location of raw data. For clinical reports "sponsored by the applicant or received or otherwise obtained," the regulations call for a description of the location of raw data (21 CFR 314.1(c)(2)12.c.). Although 21 CFR 314.1(c)(2)10 does not describe the source of the preclinical reports for which raw data locations must be provided, it is apparent from the parallel organization of the sections discussing preclinical and clinical reports that the identification of the location of preclinical data is made in connection with studies that were conducted by the manufacturer or its hired investigators.

Under 21 CFR 314.1(c)(2)12.c., reports are required to include "adequate information concerning each subject treated" and other factors necessary to evaluate properly the execution of the study. This information is required to be in the report. The adequacy of the report is central. The regulation also states that "ordinarily" the reports will not be considered adequate unless they are supplied by at least two independent investigators who maintain case histories and other data. It is, of course, clear that what is "ordinarily required" is not necessarily required in every case. When published reports on a drug are acceptable as a basis for drug evaluation regardless of the availability of raw data, FDA is not precluded from considering them. This is the view that FDA has taken when considering literature-supported NDAs'. (See Pet. Ex. 19, pp. 2–3). This construction of the regulations is plainly consistent with the regulations' terms.

The agency's construction of its statutory authority and implementing regulations accords with the Supreme Court's recognition that reports of adequate and well-controlled investigations available in the public literature may serve as a basis upon which experts can recognize a drug as safe and effective for use. In a series of cases FDA proposed to withdraw approvals for FDA's on the ground that the drugs were not shown to be effective. The manufacturers argued, among other things, that the drugs were generally recognized as safe and effective by experts and, therefore, not new drugs under 21 U.S.C. 321(p)(1) for which approved FDA's were required. The Court held that "hurdle of 'general recognition' of effectiveness requires at least 'substantial evidence' of effectiveness for approval of an NDA." *Weinberger* v. *Hynson, Wescott and Dunning, Inc.*, 412 U.S. 609, 630 (1973). The determination whether there is substantial evidence of effectiveness requires a body of publicly available information, including reports of adequate and well-controlled clinical investigations:

> * * * Whether a particular drug is a "new drug," depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation *and backed by substantial support in scientific literature.* (Emphasis added.)

Weinberger v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973). See *Premo Pharmaceutical Corp.* v. *United States*, No. 79–6227 (2d Cir. July 29, 1980). Surely, if the existence of reports of well-controlled trials in the literature could be considered adequate to exempt a drug wholly from the applicability of the NDA provisions, reports in the literature should be considered adequate also to satisfy the NDA provisions.

I believe it is apparent, and the petitioners cannot seriously dispute, that the act and regulations do not require that duplicative and ethically questionable drug experiments be carried out in humans if the existence of publicly available reports supplies the kind of evidence that would be generated by original tests. The manufacturers' tenacity in defending the confidentiality of their reports on original investigations and their recogniation that the public disclosure of the reports will aid potential competitors in securing NDA approvals is telling. The value of published reports in establishing drug effectiveness and

petitioners' reliance on such reports in their own NDA's shows clearly that they are adequate to support NDA approvals.

In accord with my conclusions that there are neither legal requirements nor policy reasons for granting petitioners' request, I am ordering that implementation of the instructions stated in the July 31 staff memorandum be resumed on December 23, 1980.

The agency is, of course, willing to consider at any time additional points of view on this and other aspects of the paper NDA policy discussed in this notice. Those wishing to express such views should identify their correspondence with the Docket No. 79P-0484 and send them to the Dockets Management Branch at the address specified at the beginning of this notice.

Dated: December 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-38522 Filed 12-19-80; 2:12 pm]

BILLING CODE 4110-03-M

federal register

Friday
December 12, 1980

Part VII

Consumer Product Safety Commission

Proposed Revisions to Regulation Governing Meetings Under the Government in the Sunshine Act and Meetings Between Agency Personnel and Outside Parties

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1011, 1012 and 1013

Meetings Policy—Meetings Between Agency Personnel and Outside Parties; and Meetings Subject to the Government in the Sunshine Act

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed Revision to Rule.

SUMMARY: The Commission proposes to revise its present regulation governing both Commission meetings subject to the Government in the Sunshine Act, (Sunshine Act regulation) and meetings between agency personnel and outside parties (Meetings Policy) (16 CFR Part 1012).[1]

The proposed revision of the Commission's Meetings Policy would primarily provide additional flexibility by delegating certain decisions and by establishing limited additional exemptions to the public attendance, advance notice and recordkeeping requirements. The proposed revision of the Commission's Sunshine Act regulation would provide technical amendments to bring the Commission's regulation into conformance with the provisions of the Sunshine Act in every respect.

The revision would also separate the Commission's general public notice provisions, the Commission's Meetings Policy, and the Commission's Sunshine Act regulation into three Parts. Additionally, the revisions contain editorial and clarifying changes that are not of a substantive nature but intended simply to make the regulations clearer.

DATES: Written comments on the proposed revisions must be received no later than February 10, 1981. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments received may be examined and copies of comments may be obtained from the Office of the Secretary, 1111 18th Street, NW., Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Alan H. Schoem, Alan R. Schwartz or Margot de Ferranti, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7770.

SUPPLEMENTARY INFORMATION: On March 16, 1977, the Commission published its Meetings regulation 42 FR 14684, codified at 16 CFR Part 1012. The regulation sets forth the Commission's general procedures for public notice of Commission activities, the Commission's policy governing meetings between agency personnel and outside parties, and rules for compliance with the Government in the Sunshine Act, 5 U.S.C. 552b. The consolidated treatment in the present regulation of both the Commission's Sunshine Act regulation and its Meetings Policy has caused confusion; the amalgamation of provisions in one Part, furthermore, has resulted in a cumbersome system of sections and subsections, and made reference to the regulation's provisions difficult. The proposed revision divides the regulation into three separate Parts. In addition, the Commission is proposing various substantive changes in the regulation.

The principal changes proposed are discussed below under the appropriate headings.

I. Notice of Agency Activities (Part 1011)

The general provisions contained in present Part 1012 that pertain to the Commission's practices and procedures for public notice of its various activities are recodified in proposed Part 1011, without substantive change. The proposed Part 1011 also contains several editorial changes.

II. Meetings Policy (meetings between staff and/or individual Commissioners and outside parties) (Part 1012)

Since October, 1973, the Commission has had in effect rules governing meetings between the staff and/or individual Commissioners and outside parties. 16 CFR 1012.5. The Commission established the Meetings Policy on its own initiative, and not pursuant to any statutory or other legal requirement, because of the Commission's belief that the "public interest is best served when regulatory affairs are open to the fullest extent possible." 38 FR 27214 (Oct. 1, 1973) In revising and expanding the Meetings Policy in October, 1974 and November, 1975, the Commission reaffirmed the policy that "to guarantee public confidence in the intergrity of Commission decision-making," the agency would, "to the fullest possible extent, conduct its business in an open manner which is free from any actual or apparent impropriety." 39 FR 37781 (Oct. 24, 1974) (§ 1001.60(b)); 40 FR 51363 (Nov. 4, 1975) (§ 1012.1(b)).

The Meetings Policy currently in effect generally requires meetings between agency personnel and outside parties involving "substantial interest matters" to be announced in advance and open to the public, subject to certain specific exemptions. Section 1012.5(b)(1)(ii) and (b)(2)(ii). In addition to the specific exemptions, there is a general exemption from the public attendance requirement for "extraordinary circumstances." Section 1012.5(b)(2)(ii)(F). The required period of advance notice for meetings is seven days, unless the meeting is exempt from the notice requirement altogether or approval for a shorter period of time is obtained from the Office of the Chairman. Section 1012.5(b)(1)(i)(B). All meetings involving matters of substantial interest, regardless of whether required to be announced and open to the public, are subject to the requirement that a meeting summary be filed with the Office of the Secretary. Section 1012.6(c)(1). Telephone calls involving matters of substantial interest are also subject to the recordkeeping requirements. Section 1012.8.

The Commission continues to endorse the essential principle of openness embodied in its Meetings Policy. However, the Commission's seven years of practical day-to-day experience with the policy suggests the desirability of making some adjustments to provide additional flexibility in carrying out the Commission's fundamental mission to protect the public from unreasonable risks of injury associated with consumer products.

1. Meetings Not Involving Substantial Interest Matters

The present Meetings Policy currently in effect is essentially directed at meetings concerning "substantial interest matters" as that term is defined in § 1012.2(i). Meetings concerning matters that are not substantial interest matters are not subject to the advance notice requirements (§ 1012.5(b)(1)(i)(A) and (ii)(A)) or the recordkeeping requirements (§§ 1012.6(c)(1) and 1012.8(b)). The Meetings Policy, however, encourages advance notice where advance notice would serve the public interest. Section 1012.5(b)(1)(ii). Nevertheless, all meetings that are listed in the Public Calendar or Master Calendar are subject to the general public attendance requirement, whether or not substantial interest matters are involved. Section 1012.5(b)(2)(i).

This creates the illogical situation in which either the public is given no notice of a meeting (and therefore no

[1] A majority of the Commissioners (Chairman King, Commissioner Sloan and Commissioner Statler) approved the Proposed Revision in all respects. Commissioners Pittle and Zagoria joined in approval of the Proposed Revision except as to § 1012.4(d)(10). Both Commissioners have issued separate dissenting opinions, copies of which are available in the Office of the Secretary.

opportunity to attend) or is given notice and must be allowed to attend. As a result, agency personnel may be discouraged from informing the public of meetings which do not involve substantial interest matters because to inform the public is to require public attendance. There is no reason why the mere listing of a meeting should trigger the public attendance requirement, particularly where the listing is voluntary.

The proposed revision at § 1012.4(a) would explicitly limit the public attendance requirement to meetings involving substantial interest matters. This revision would make it clearer that the meetings policy requirements are directed at substantial interest matters, and would also encourage public notice of meetings which do not involve substantial interest matters.

2. Intergovernmental Meetings

A. Federal Personnel.—Section 1012.5(b) provides that the requirements for advance notice, public attendance, and recordkeeping apply to any meeting with an "outside party" concerning a substantial interest matter "whether the meeting is hosted or attended at Agency premises or at the premises of outside parties, or at any other location." Section 1012.2(h) defines "outside party" as anyone "not an employee, not under contract to do work for the Agency or not acting in an official capacity as a consultant to the Consumer Product Safety Commission."

To facilitate staff attendance at meetings with other Federal personnel, including meetings sponsored by interagency groups such as the Intergency Regulatory Liaison Group (IRLG), the Commission has already exempted such meetings from the requirement for advance notice and public attendance under most circumstances. Sections 1012.5(b)(1)(ii)(G) and 1012.5(b)(2)(ii)(E). These exemptions, however, are limited to meetings attended solely by other Federal agency employees, even though attendance by private persons may be incidental to the purpose of the meeting or the purpose of the CPSC employee's attendance. Additionally, the present exemptions contained in §§ 1012.5(b)(1)(ii)(G) and 1012.5(b)(2)(ii)(E) are unnecessarily cryptic, considering it was the Commission's purpose that the exemptions "cover most routine interagency meetings hosted or attended by the Agency's staff." 42 FR 58399 (Nov. 9, 1977).

Accordingly, the proposed § 1012.2(f) would more directly and simply address the issue by redefining the term "outside party" to exclude other Federal personnel. The term Federal personnel is meant to be read inclusively, covering all branches of the Federal government. The effect of this redefinition would be to exclude from the Meetings Policy altogether meetings between CPSC personnel and other Federal personnel.

Additionally, the proposed §§ 1012.3(d)(5) and 1012.4(d)(5) would generally exempt from the advance notice and public attendance requirements (but not the recordkeeping requirement) meetings with other Federal agency personnel that are attended by "outside parties." In most circumstances Commission personnel should not be forced to choose between imposing the Commission's openness requirements upon another agency and not attending a meeting with other Federal agency personnel that do not have such requirements. Because the Commission recognizes, however, that there are special circumstances in which public access becomes compelling and of overriding importance, the proposed exemptions would not apply to meetings with other Federal personnel that are attended by outside parties where the meeting's agenda includes a specific matter pending before the Commission or its staff.

B. Other Government Personnel.—The rationale for the above-discussed changes to facilitate interagency meetings, is in many circumstances, also applicable to meetings with personnel of state and local agencies, as well as representatives of foreign governments or international governmental organizations. Intergovernmental cooperative efforts extend beyond the Federal Government level. However, because foreign, state and local governments may come before the Commission as advocates for particular regulatory action on behalf of their constitutuencies, the proposed exemption for non-federal governmental personnel is narrowly drawn. Accordingly, the proposal at §§ 1012.3(d)(6) and 1012.4(d)(6) would exempt from the advance notice and public attendance requirements meetings with state, local and foreign government personnel where the meeting concerns intergovernmental cooperative efforts and not the advocacy of a particular Commission course of action to benefit a constituency of the governmental entity.

3. Extraordinary Circumstances

Under present §§ 1012.5(b)(2)(ii)(F) and 1012.5(b)(2)(ii)(G), meetings between Commission personnel and outside parties may be closed to public attendance in "extraordinary circumstances." The Commission considered both amending this exemption to provide greater guidance as to what constituted the extraordinary circumstances and providing an alternative exemption that was clearer in its scope. After reflection, the Commission, however, does not propose to alter the exemption. The exemption is recodified at § 1012.4(d)(7).

The extraordinary circumstances exemption covers circumstances that warrant the flexibility to close a meeting, but are not covered by other exemptions. In that sense those circumstances defy precise definition. It is possible, however, to describe a number of basic considerations that underlie the exemption for extraordinary circumstances.

First, the exemption is designed for the unusual circumstance where closure is deemed necessary and where existing exemptions do not allow for closure. During the past seven years there have been fewer than thirty requests to close meetings under the extraordinary circumstances exemption, and many of the requests for closure under the extraordinary circumstances exemption involved matters, including settlement and negotiation discussions, which would be covered by the additional exemptions proposed in this document.

Secondly, the extraordinary circumstances exemption is designed for a narrow set of circumstances in which the interest in effectively carrying out the Acts that the Commission administers conflicts with and outweighs the interest in openness. The Commission does not view openness as a benefit that generally detracts from the Commission's ability to effectively pursue its statutory mandate. To the contrary, openness generally furthers those aims by assuring that all information the staff and the Commission may rely upon is publicly available and subject to the possibility of being contested. However, there may be circumstances where openness does conflict with the Commission's ability to carry out its mission. The exemption for extraordinary circumstances recognizes that in a finite number of cases, which are by definition considered out of the ordinary, the public interest in the agency's safety mission must take precedence over the interest in openness embodied in the Meetings Policy. A proposed new procedure for the invocation of the exemption for meetings involving Agency staff is discussed below under 6. "Delegations."

Under § 1012.5(b)(2)(ii) (F) and (G) the reasons for closing a meeting for extraordinary circumstances must be "detailed" in the Public Calendar. In

order to avoid the impression that this in effect requires detail that would undermine the closed nature of the meeting, the proposal would remove the requirement for "details." *See* § 1012.4(d)(7).

4. Settlement, Negotiation and Other Litigation Discussions

The regulation currently in effect requires advance notice and an opportunity for public attendance for "any negotiation meetings leading to settlement of individual cases." Sections 1012.5(b)(1)(ii)(C) and 1012.5(b)(2)(ii)(D). Similarly, the existing Meetings Policy requires advance notice and public attendance for meetings concerning possible substantial product hazards under section 15 of the Consumer Product Safety Act, except for meetings involving initial notification pursuant to section 15(b) of the CPSA. Sections 1012.5(b)(1)(ii)(B) and 1012.5(b)(2)(ii)(C).

Although the Commission considered many of these issues when it proposed the Meetings Policy, *see* 40 FR 51362 (Nov. 4, 1975), experience has demonstrated that public attendance at negotiation sessions has interfered with the ability of the Commission and its staff promptly and effectively to negotiate and settle matters short of formal administrative or judicial proceedings and to engage in discussions in the course of litigation. For the reasons discussed below, the proposed revision would amend the Meetings Policy to provide an exemption from the advance notice and public attendance requirements for such discussions. *See* §§ 1012.3(d)(3) and 1012.4(d)(4).

The regulation's general seven day advance notice requirement (§ 1012.5(b)(1)(i)) delays the negotiation process. Although the regulation does provide for approval by the Chairman's Office for less than seven days notice, the process of seeking such approval can cause delay. The public attendance requirement also inhibits full and frank discussions of settlement, with all the parties less inclined to be candid in their disucssions. The presence of members of the public, including representatives of competitors, private litigants and the media, gives rise to concern by the parties that their statements at a negotiation session might imply an admission that could be used against them in private product liability actions or used for some competitive advantage. These considerations apply equally to the negotiation of voluntary corrective action plans and proposed consent order agreements under section 15 of the CPSA and to the negotiation of other health and safety matters where the staff seeks to obtain prompt voluntary remedial action.

The public attendance requirement also interferes with cooperative litigation efforts between the Commission and persons supporting the Commission's position in court. Under the current regulation, opposing counsel may attend meetings between Commission lawyers and lawyers for persons that support the Commission in a particular case. The attendance of litigation adversaries inhibits candid discussions of cooperative litigation strategy. In addition, although there are exemptions for meetings solely between Commission personnel and Department of Justice employees regarding litigation matters (§§ 1012.5(b)(1)(ii)(E) and 1012.5(b)(2)(ii)(I)), the public attendance requirement has also interfered with the full involvement of Commission attorneys in cases involving the Department of Justice where there is a need to meet with opposing counsel. The Department of Jutice does not require notice or public attendance for meetings between its attorneys and private counsel.

In proposing to close negotiations to the public, the Commission emphasizes that the subject of any negotiation and the terms of a final settlement are not kept from the public. Where an administrative or judicial complaint has been filed, the matter is, by definition, in the public domain, and interested persons—consumer or industry representatives—have the opportunity to seek to intervene in the matter. In the case of consent order agreements, which incorporate proposed complaints under section 15 of the CPSA and under the Flammable Fabrics Act, the public generally has 15 days to comment on and object to the provisionally accepted agreement. 16 CFR 1605.13(d) and 1115.20(b)(4). (In the case of corrective action plans public comment is only available where time permits and where practicable. 16 CFR 1115.20(a)(4).) Similarly, an agreement to settle a judicial action will normally be presented and considered by the presiding judge. Given these safeguards once the parties have negotiated a settlement and the public interest in obtaining negotiated remedial action, denial of public access to settlement discussions and negotiations is reasonable.

The proposed revision would render superfluous the present exemption contained in §§ 1012.5(b)(1)(ii)(E) and 1012.5(b)(2)(ii)(I), and therefore the comission proposes that these sections be deleted.

The existing regulation (§§ 1012.5(b)(1)(ii)(C) and (b)(2)(ii)(D)) excepts from the advance notice and public attendance requirements meetings with outside parties "held during the normal course of field surveillance, inspection or investigation of a person or a company." Because an investigation may occur at headquarters as well as in "the field," the word "field" has been deleted from the proposed regulation. Sections 1012.3(d)(2) and 1012.4(d)(3).

5. Early, Exploratory and Informational Matters

The proposed revision also contains a new exemption from the public attendance requirement for meetings concerning early, exploratory and informational matters. Section 1012.4(d)(10). This proposed exemption is designed to provide agency personnel with additional flexibility to close certain meetings to receive information concerning matters that are, in essence, new. The proposal is designed to permit, where necessary, the full and frank transmittal of information to the Commission at the earliest stages—indeed often the matters will be first broached at these meetings. The exemption is proposed in order to allow the agency to remove the barriers to full discussions that may be posed by the public attendance requirement, thereby facilitating the exploration of new matters with Commission personnel before those matters have been firmly formulated or developed or concretely considered by the Commission or its staff. The exemption applies only to the public attendance requrement and does not apply to the advance notice requirement or the requirement for a meeting summary.

The proposed exemption contained in § 1012.4(d)(10), however, lists a number of explicit exceptions designed to ensure a narrow interpretation of the exemption. The early, exploratory and informational matters exemption is not applicable, under any circumstances, to those matters set out in § 1012.4(d)(10)(iii)(A)–(J). The general public interest in openness is protected by these exclusions. Once a matter has developed beyond the early stages, the Meetings Policy requirements would be fully applicable. The procedure for the invocation of the exemption is discussed below.

6. Delegations

The Meetings Policy currently in effect requires approval by the Commission and the Office of the Chairman of certain exemptions to the general requirements for advance public notice and the opportunity for public attendance at agency meetings. Under

the current Meetings Policy, agency staff (other than the personal staff of Commissioners) who desire to hold a meeting when there is no opportunity to provide the required seven days' advance notice, must obtain the approval of the Office of the Chairman. Section 1012.5(b)(1)(i)(B). Agency meetings between agency staff (other than a Commissioner and his or her personal staff) and an outside party may be closed under the extraordinary circumstances exemption only by majority vote of the Commission. Section 1012.5(b)(2)(ii)(F).

The proposed revision at §§ 1012.3(c) and 1012.4(d)(7) respectively, would transfer responsibility for these two decisions to the General Counsel or his or her designee. This change would reduce the burden on the Chairman's Office and the individual Commissioners and also eliminate the delays inherent in circulating matters for decision by the full Commission. In addition, the proposed revision at § 1012.4(d)(10)(i) would vest in the General Counsel or his or her designee the responsibility for deciding the applicability of the proposed exemption for meetings between agency staff (other than a Commissioner or his or her personal staff) and outside parties concerning matters at their very early, exploratory and informational stages.

In each of these three matters, (i) waiver of the seven-day advance notice, (ii) waiver of the public attendance requirements for extraordinary circumstances and (iii) waiver of the public attendance requirement for meetings concerning matters at their early, exploratory and informational stages, the Commission proposes that requests for exemption by members of the staff who report to the Executive Director may only be submitted to the General Counsel, or his or her designee, by the Executive Director or his or her designee. This procedure would allow the Executive Director or his or her designee to determine whether circumstances warrant requesting that the General Counsel decide whether under the regulation a given exemption may be invoked. This procedure is consistent with the basic thrust of the Meetings Policy that, to the greatest extent feasible, there should be seven days' advance notice and an opportunity for public attendance, even where the Meetings Policy does not by its terms require advance notice and public attendance.

7. Section 6(b)

Section 6(b) of the CPSA generally requires advance notice and an opportunity for comment whenever the Commission publicly discloses information about a consumer product from which the public could readily ascertain the identity of the manufacturer or private labeler of the product. The Commission is in the process of developing a regulation to interpret and implement section 6(b). To the extent meetings with the public may trigger section 6(b) procedures, they will be addressed during the development of the regulation.

8. Meeting Summaries

Under present § 1012.6(c)(1)(ii) meeting summaries of all meetings involving substantial interest matters must be filed with the Office of the Secretary within 20 days of the meeting, and the Office of the Secretary shall maintain a public file of such summaries. The present regulation fails to recognize that there may be legal restrictions on the public availability of such information, including those imposed by section 6 of the Consumer Product Safety Act, 15 U.S.C. 2065. Accordingly, the proposed regulation at § 1012.5(b)(2) provides that meeting summaries of closed meetings shall be made available to the public "to the extent permitted by law".

III. Government in the Sunshine Act Regulation (Part 1013)

Presently, the provisions relating to the Sunshine Act are interspersed with the Commission's Meetings Policy throughout Part 1012. As proposed, Part 1013 will be devoted solely to the Commission's Sunshine Act regulation.

A close comparison of the provisions of the Sunshine Act with the Commission's present regulation reveals several technical disparities between the statute and the regulation. The proposed revision is intended to make the regulation comport more precisely with the statute.

1. Although it is the established practice of the General Counsel always to cite the applicable exemptive provision in the certifications of closed Commission meetings as required by 5 U.S.C. 552b(f)(1), the existing regulation (§1012.4(e)(3)) does not include the statutory requirement that every certification "shall state each relevant exemptive provision." The proposed revision at § 1013.4(c)(3) contains this explicit language.

2. The present regulation (§ 1012.4(b)) fails to recite the Sunshine Act's requirement that, in the case of post-announcement changes either as to the subject matter of a meeting or as to the decision to open or close a meeting, the majority of the Commissioners must also determine that "no earlier announcement of the change was possible." 5 U.S.C. 552b(e)(2). This requirement indicates a legislative intent that agencies not use the provision for post-announcement changes to avoid their responsibility to keep members of the public advised of agencies' deliberations. The proposed revision at § 1013.3(e) contains the change.

3. The present regulation (§ 1012.4(b)) also fails to recite the Sunshine Act's (5 U.S.C. 552b(e)(2)) requirement that, in the case of a post-announcement change as to subject matter or as to the determination to open or close a meeting, the agency must publicly announce "the vote of each member upon such change." The proposed revision at § 1013.3(e) contains this language.

4. The present regulation does not contain a provision governing the use of photographic and sound-recording equipment at open Commission meetings. The proposed revision (§ 1013.4(a)) provides, consistent with the Commission's practice, that the use of such equipment is permitted, but that the Chairman or presiding Commissioner shall ensure that the use of such equipment does not disrupt the conduct of the meeting.

5. Questions have arisen concerning the definition of the term "meeting." The present regulation (§ 1012.2(f)) merely recites the statutory language contained in 5 U.S.C. 552b(a)(2). Although the language of the Sunshine Act and its legislative history make clear that not every discussion among a majority of the Commissioners constitutes a meeting subject to the Sunshine Act's requirements, the Commission does not propose to alter the definition contained in the regulation. However, the Commission notes that although the precise scope of the term "meeting" is not clear, there may be general or exploratory and tentative discussions that are not subject to the Act's requirements. The Commission, however, does not attempt in this proposed regulation to define the exact contours of such discussions.

6. The Commission also proposes to amend § 1012.6(b) of the present regulation as it refers to "Records of Commission Action." In a September 26, 1979 meeting, the Commission decided to replace the "Records of Commission Action" with "Minutes" of Commission decisions. The proposed revision at § 1013.5 would amend the regulation accordingly.

7. The Commission's Sunshine Act regulation does not reflect the impact upon Commission meetings of compliance with section 6(b) of the

CPSA. Section 6(b) provides that prior to the public disclosure of information concerning a consumer product from which the public may readily ascertain the identity of a manufacturer or private labeler of the product the Commission generally must, where practicable, provide advance notice of the disclosure to the manufacturer or private labeler and give an opportunity for comment on the information. The Commission is in the process of developing a regulation to interpret and implement section 6(b). In the course of the development of the 6(b) regulation the Commission will consider the impact of section 6(b) on Commission meetings.

It is proposed to amend title 16 CFR by removing Part 1012 and by adding new Parts 1011, 1012, and 1013 to read as follows:

PART 1011—NOTICE OF AGENCY ACTIVITIES

Sec.
1011.1 General policy considerations; scope.
1011.2 Definitions.
1011.3 General requirements for various kinds of meetings.
1011.4 Forms of advance public notice of meetings; Public Calendar/Master Calendar and Federal Register.

Authority: 5 U.S.C. 552b(g); Pub. L. 92-573, 86 Stat. 1207 (15 U.S.C. 2051-81) as amended by Pub. L. 94-284, 90 Stat. 503, Pub. L. 95-319, 92 Stat. 386, Pub. L. 95-631, 92 Stat. 3742; Pub. L. 90-189, 81 Stat. 568 (15 U.S.C. 1191-1204); Pub. L. 86-613, 74 Stat. 372, as amended by Pub. L. 89-756, 80 Stat. 1303, and Pub. L. 91-113, 83 Stat. 187 (15 U.S.C. 1261-74); Pub. L. 91-601, 84 Stat. 1670 (15 U.S.C. 1471-76) and the Act of Aug. 7, 1956, 70 Stat. 953 (15 U.S.C. 1211-14).

§ 1011.1 General policy considerations; scope.

(a) In order for the Consumer Product Safety Commission to properly carry out its mandate to protect the public from unreasonable risks of injury associated with consumer products, the Commission has determined that it must involve the public in its activities to the fullest possible extent.

(b) To ensure public confidence in the integrity of Commission decisionmaking, the Agency, to the fullest possible extent, will conduct its business in an open manner free from any actual or apparent impropriety.

(c) This Part 1011 presents general provisions concerning public notice for various types of Agency activities.

§ 1011.2 Definitions.

As used in this Part 1011, the following terms shall have the meanings set forth:

(a) *Agency.* The entire organization which bears the title Consumer Product Safety Commission (CPSC).

(b) *Agency staff.* Employees of the Agency other than the five Commissioners.

(c) *Commissioner.* An individual who belongs to the collegial body heading the CPSC.

(d) *Commission.* The Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(e) *Commission Meeting.* A meeting of the Commissioners subject to the Government in the Sunshine Act, 5 U.S.C. 552b. This term is more fully defined in the Commission's regulations under the Government in the Sunshine Act, 16 CFR Part 1013.

(f) *Agency meeting.* A meeting between Agency personnel, including individual Commissioners, and outside parties. This term and the term "outside party" are more fully defined in the Commission's Meeting Policy, 16 CFR Part 1012.

§ 1011.3 General Requirements for Various Kinds of Meetings.

Meetings which involve Agency staff or the Commissioners, other than Commission meetings, are classified in the following categories and shall be held according to the procedures outlined within each category.

(a) *Hearings.* Hearings are public inquiries held by direction of the Commission for the purpose of fact finding or to comply with statutory requirements. The Office of the Secretary is responsible for providing transcription services at the hearings. Where possible, notice of forthcoming hearings will be published in the Public Calendar and the Federal Register at least 30 days before the date of the hearings.

(b) *Meetings between Commissioners or Agency staff and outside parties.* The requirements for Agency meetings between Commissioners or Agency staff and outside parties involving substantial interest matters are contained in 16 CFR Part 1012.

(c) *Commission meetings.* The requirements for Commission meetings under the Government in the Sunshine Act, 5 U.S.C. 552b are contained in 16 CFR Part 1013.

(d) *Staff meetings.* As a general rule, only Agency employees attend staff meetings. At the discretion of the participants, Staff meetings may be listed on the Public Calendar and attendance by the public may be permitted. Recordkeeping is at the discretion of the participants.

(e) *Advisory committee meetings.* Meetings of the Agency's advisory committees are scheduled by the Commission. Advance notice will be given in both the Public Calendar and the Federal Register. Advisory committee meetings serve as a forum for discussion of matters relevant to the Agency's statutory responsibilities with the objective of providing advice and recommendations to the Commission. The Agency's advisory committees are the National Advisory Committee for the Flammable Fabrics Act, the Product Safety Advisory Council, the Technical Advisory Committee on Poison Prevention Packaging and the Toxicological Advisory Board. The Office of the Secretary is responsible for the recordkeeping for such meetings. The Commission's regulation for the management of its advisory committees is set out in 16 CFR 1018.

§ 1011.4 Forms of advance public notice of meetings; Public Calendar/Master Calendar and Federal Register.

Advance notice of Agency activities is provided so that members of the public may know of and participate in these activities to the fullest extent possible. Where appropriate, the Commission uses the following types of notice for both Agency meetings subject to 16 CFR Part 1012 and Commission meetings subject to 16 CFR Part 1013:

(a) *Public Calendar/Master Calendar.* (1) The printed Public Calendar and the Master Calendar maintained in the Office of the Secretary are the principal means by which the Agency notifies the public of its day-to-day activities. The Public Calendar and/or Master Calendar provide advance notice of public hearings, Commission meetings, Agency meetings with outside parties involving substantial interest matters, other Agency meetings, selected staff meetings, advisory committee meetings, and other activities such as speeches and participation in panel discussions, regardless of the location. The Public Calendar also lists recent CPSC Federal Register issuances and Advisory Opinions of the Office of the General Counsel.

(2) Upon request in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, any person or organization will be sent the Public Calendar on a regular basis free of charge. In addition, interested persons may contact the Office of the Secretary to obtain information from the Master Calendar which is kept current on a daily basis

(3) The Public Calendar and the Master Calendar, supplemented by meeting summaries, are intended to serve the requirements of section 27(j)(8) of the Consumer Product Safety Act (15 U.S.C. 2076(j)(8)).

(b) *Federal Register.* Federal Register is the publication through which official notifications, including formal rules and regulations of the Agency, are made. Because the Public Calendar and/or Master Calendar are the primary devices through which the Agency notifies the public of its routine, daily activities, the Federal Register will be utilized only when required by the Government in the Sunshine Act (as provided in 16 CFR Part 1013) or other applicable law, or when the Agency believes that the additional coverage which the Federal Register can provide is necessary to assist in notification to the public of important meetings.

PART 1012—MEETINGS POLICY—MEETINGS BETWEEN AGENCY PERSONNEL AND OUTSIDE PARTIES

Sec.

1012.1 Scope.
1012.2 Definitions.
1012.3 Advance public notice of agency meetings.
1012.4 Public attendance at agency meetings.
1012.5 Recordkeeping for agency meetings.
1012.6 The news media.
1012.7 Telephone conversations.

Authority: Pub. L. 92-573, 86 Stat. 1207 (15 U.S.C. 2051-81) as amended by Pub. L. 94-284, 90 Stat. 503, Pub. L. 95-319, 92 Stat. 386, Pub. L. 95-631, 92 Stat. 3742; Pub. L. 90-189, 81 Stat. 568 (15 U.S.C. 1191-1204); Pub. L. 86-613, 74 Stat. 372; as amended by Pub. L. 89-756, 80 Stat. 1303, and Pub. L. 91-113, 83 Stat. 187 (15 U.S.C. 1261-74); Pub. L. 91-601, 84 Stat. 1670 (15 U.S.C. 1471-76) and the Act of Aug. 7, 1956, 70 Stat. 953 (15 U.S.C. 1211-14).

§ 1012.1 General Policy considerations; Scope.

(a) To achieve its goals of involving the public in its activities and conducting its business in an open manner, the Agency, whenever practicable, shall notify the public in advance of all meetings involving matters of substantial interest held or attended by its personnel, and shall permit the public to attend such meetings. Furthermore, to ensure the widest possible exposure of the details of such meetings, the Agency will keep records of them freely available for inspection by the public.

(b) This Part 1012, the Agency's Meetings Policy, sets forth requirements for advance public notice, public attendance, and recordkeeping for Agency meetings.

§ 1012.2 Definitions.

(a) As used in this Part 1012, the following terms have the respective meanings set forth in paragraphs (a)—(d) of § 1011.2 of this subchapter: "Agency," "Agency staff," "Commissioner," "Commission."

(b) *Agency meeting.* Any face-to-face encounter, other than a Commission meeting subject to the Government in the Sunshine Act, 5 U.S.C. 552b, and Part 1013, in which one or more employees, including Commissioners, discusses with an outside party any subject relating to the Agency or any subject under its jurisdiction. The term Agency meeting does not include telephone conversations, but see § 1012.8 which relates to telephone conversations.

(c) *Outside party.* Any person not an employee, not under contract to do work for the Agency, or not acting in an official capacity as a consultant to the Consumer Product Safety Commission, such as advisory committee members or offeror personnel. Examples of persons falling within this definition are representatives from industry and consumer groups. Members of the news media when acting in a newsgathering capacity are not outside parties. (See also § 1012.7.) Officers and employees of the Federal Government when acting in their official capacities are not outside parties.

(d) *Substantial interest matter.* Any matter, other than that of a trivial nature, that pertains in whole or in part to any issue that is likely to be the subject of a regulatory or policy decision by the Commission. Pending matters, i.e., matters before the Agency in which the Agency is legally obligated to make a decision, automatically constitute substantial interest matters. Examples of pending matters are: Scheduled administrative hearings; matters published for public comments; petitions under consideration; and mandatory standard development activities. The following are some examples of matters that do not contitute substantial interest matters: Inquiries concerning the status of a pending matters; discussions relative to general interpretations of existing laws, rules, and regulations; inspection of nonconfidential CPSC documents by the public; negotiations for contractual services; and routine CPSC activities such as recrutiment, training, meetings involving consumer deputies, or meetings with hospital staff and other personnel involved in the National Electronic Injury Surveillance System.

§ 1012.3 Advance Public Notice of Agency Meetings.

(a) Commissioners and Agency employees are responsible for reporting meeting arrangements for Agency meetings to the Office of the Secretary so that they may be published in the Public Calendar or entered on the Master Calendar at least seven days before a meeting, except as provided in paragraph (d) of this section. These reports shall include the following information:

(1) Probable participants and their affiliations;

(2) Date, time and place of the meeting;

(3) Subject of the meeting (as fully and precisely described as possible);

(4) Who requested the meeting;

(5) Whether the meeting involves matters of substantial interest;

(6) Notice that the meeting is open or reason why the meeting or any portion of the meeting is clsoed (e.g., discussion of trade secrets); and

(7) Names and telephone number of the CPSC host or CPSC contact person.

(b) Once a report has been made to the Office of the Secretary, Agency employees subsequently desiring to attend the meeting need not notify the Office of the Secretary.

(c) When there is no opportunity to give seven days advance notice of a meeting, Agency employees (other than the Commissioners or their personal staff) who desire to hold or attend such a meeting must obtain the approval of the General Counsel or his or her designee. Requests for waiver of the seven day advance notice requirment by members of the staff who report to the Executive Director may only be submitted to the General Counsel or his or her designee in writing by the Executive Director or his or her designee. Personal staff of Commissioners must obtain the approval of their respective Commissioners. If the short notice is approved, the Agency employee must notify the Office of the Secretary in advance of the meeting to record the meeting on the Master Calendar. The Office of the Secretary shall publish notice of the meeting as an addendum to the next Public Calendar.

(d) Exceptions. The notice requirement shall not apply to:

(1) Meetings with outside parties not involving substantial interest matters (although such meetings should be lited where the public interest would be served);

(2) Meetings with outside parties held during the normal course of surveillance, inspection, or investigation under any of the Acts administered by the Commission, including informal citation hearings under the Federal Hazardous Substance Act or the Poison Prevention Packaging Act;

(3) Meetings with outside parties concerning the settlement or negotiation of an individual case, including

proposed remedial action, or meetings concerning any administrative or judicial action in which the outside party is a participant, party, or *amicus curiae;*

(4) Routine speeches given by CPSC personnel before outside parties. However, for information purposes, personnel are encouraged to submit advance notice of these speeches to the Office of the Secretary for inclusion in the Public Calendar;

(5) Meetings with other Federal personnel that are also attended by outside parties except where a specific matter to be discussed is also pending before the Commission or its staff;

(6) Meetings with state, local or foreign government personnel concerning intergovernmental cooperative efforts and not the advocacy of a particular course of action on behalf of a constituency of the governmental entity;

(7) Meetings or discussions with or at the request of either members of Congress and their staffs relating to legislation, appropriation or oversight matters, or Management and Budget personnel relating to legislation or appropriation matters;

(8) Pre-proposal conferences involving confidential contracts made pursuant to 41 U.S.C. 252(c)(12) in connection with potential litigation matters.

§ 1012.4 Public attendance at agency meetings.

(a) Any person may attend any meeting involving a substantial interest matter unless that meeting has been listed as a closed meeting. For meetings not involving substantial interest matters, the chairperson of the meeting may exercise his or her discretion to allow attendance by a member of the public.

(b) When meetings between Agency employees and outside parties are open to the public, attendance may be limited by space. When feasible, a person or organization desiring to attend such a meeting should give at least one day advance notice to one of the employees holding or attending the meeting so that sufficient space can be arranged for all those wishing to attend.

(c) Members of the public attending Agency meetings generally may observe only. The chairperson of the meeting may exercise his or her discretion to permit members of the public to participate as well.

(d) The following Agency meetings are not open to the public:

(1) Meetings, or, if possible, portions of meetings where the General Counsel or his or her designee has determined that proprietary data are to be discussed in such a manner as to imperil their confidentiality;

(2) Meetings held by outside parties at which limits on attendance are imposed by lack of space, provided that such meetings are open to the news media;

(3) Meetings with outside parties held during the normal course of surveillance, inspection, or investigation under any of the Acts administered by the Commission, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act;

(4) Meetings with outside parties concerning the settlement or negotiation of an individual case, including proposed remedial action, or meetings concerning any administrative or judical action in which the outside party is a participant, party, or *amicus curiae;*

(5) Meetings with other Federal personnel that are attended by outside parties except where a specific matter to be discussed is also pending before the Commission or its staff;

(6) Meetings with state, local or foreign government personnel concerning intergovernmental cooperative efforts and not the advocacy of a particular course of action on behalf of a constituency of the governmental entity;

(7)(i) Meetings between Agency staff (other than Commissioners and their personal staff) and an outside party when the General Counsel or his or her designee determines that extraordinary circumstances require that the meeting be closed. Requests for exemption by members of the staff who report to the Executive Director may be submitted to the General Counsel or his or her designee in writing only by the Executive Director or his or her designee. In such a case, the reasons for closing the meeting or a portion of the meeting shall be stated in the Public Calendar notice announcing the meeting;

(ii) Meetings between a Commissioner (or his or her personal staff) and an outside party when, in the opinion of the Commissioner, extraordinary circumstances require that the meeting be closed. In such a case, the reasons for closing the meeting or a portion of the meeting must be stated in the Public Calendar notice announcing the meeting;

(8) Meetings or discussions with or at the request of either members of Congress and their staffs relating to legislation, appropriation or oversight matters, or Management and Budget personnel relating to legislation or appropriation matters;

(9) Pre-proposal conferences involving confidential contracts made pursuant to 41 U.S.C. 252(c)(12), in connection with the potential litigation matters;

(10)(i) Meetings between Agency staff (other than Commissioners and their personal staff) and an outside party, when the General Counsel, or his or her designee, determines that the meeting concerns matters at their very early, exploratory and informational stages. Requests for exemption by members of the staff who report to the Executive Director may only be submitted to the General Counsel or his or her designee in writing by the Executive Director or his or her designee; or

(ii) Meetings between a Commissioner (or his or her personal staff) and outside parties, when the Commissioner determines that the meeting concerns matters at their very early, exploratory and information stages.

(iii) The exemptions stated in paragraphs (d)(10) (i) and (ii) of this section shall not apply to any meeting or portion of a meeting concerning:

(A) Any regulatory matter that has been scheduled for Commission decision;

(B) Product specific/hazard matters on the priority list;

(C) Product specific/hazard matters on the operating plan;

(D) Matters that are the subject of a petition;

(E) Matters that have been referred by the emerging hazards team to the petition team;

(F) Any policy matter that has been scheduled for Commission decision;

(G) Policy matters on the priority list designated as outside the exemption;

(H) Policy matters on the operating plan designated as outside the exemption;

(I) Any matter concerning which advance notice of proposed rulemaking, notice of proposed rulemaking, general order, special order, or subpoena has been issued; or

(J) Any matter concerning a civil or criminal action to which the Commission is a party, or concerning which the Commission has authorized or issued an administrative complaint.

§ 1012.5 Recordkeeping for Agency Meetings.

(a) This section describes and establishes requirements for the two types of records maintained for Agency meetings, Agency meeting summaries and transcripts.

(b) Agency Meeting Summaries. Agency meeting summaries are written records settling forth the issues discussed at all Agency meetings with outside parties involving substantial interest matters. Any Commission employee who holds or attends an

Agency meeting involving a substsantial interest matter must prepare a meeting summary. However, only one agency meeting summary is required for each meeting even if more than one CPSC employee holds or attends the meeting. Agency meeting summaries are generally available to the public in the Agency's Public Reading Room in the Office of the Secretary as described in subsection (2).

(1) An agency meeting summary should state the essence of all substantive matters relevant to the Agency, especially any matter discussed which was not listed on the Public Calendar, and should describe any decisions made or conclusions reached regarding substantial interest matters. An agency meeting summary should also indicate the date of the meeting and the identity of persons who attended.

(2) An agency meeting summary or a notice of cancellation of the meeting must be submitted to the Office of the Secretary within twenty (20) calendar days after the meeting for which the summary is required. The Office of the Secretary shall maintain a file of the meeting summaries in chronological order, which shall be available to the public to the extent permitted by law.

(c) Transcripts. Transcripts are generally taken at public hearings and certain Agency meetings when complex subjects indicate *verbatim* records are desirable. The transcript may also include exhibits submitted to be part of the formal record of an Agency meeting. Copies of such transcripts are placed on file for public inspection in the Office of the Secretary.

§ 1012.6 The news media.

The Agency recognizes that the news media occupy a unique position in informing the public of the Agency's activities. The Comission believes that the inherently public nature of the news media allows their activities to be exempt from the requirements of this part whenever Agency meetings are held with the news media for the purpose of informing them about Agency activities. Such Agency meetings are not exempt in the event that any representative of the news media attempts to influence any Agency employee on a substantial interest matter.

§ 1012.7 Telephone conversations.

(a) Telephone conversations present special problems regarding Agency meetings. The Commission recognizes that persons outside the Agency have a legitimate right to receive information and to present their views regarding Agency activities. The Commission also recognizes that such persons may not have the financial means to travel to meet with Agency employees. However, because telephone conversations, by their very nature, are not susceptible to public attendance, or participation, Agency employees must take care to ensure that telephone conversations are not utilized to circumvent the provisions of this Part.

(b) Two basic rules apply to telephone conversations:

(1) Any Agency employee holding a telephone conversation in which substantial interest matters are discussed with an outside party must prepare a telephone call summary of the conversation. The summary must meet the requirements of § 1012.5(b), and must be submitted to the Office of the Secretary within twenty (20) calendar days of the conversation. The Office of the Secretary shall maintain file of telephone call summaries in chronological order which shall be available to the public to the extent permitted by law.

(2) All Agency employees must exercise sound judgment in discussing substsantial interest matters during a telephone conversation. In the exercise of such discretion Agency employees should not hesitate to terminate a telephone conversation and insist that the matters being discussed be postponed until an Agency meeting with appropriate advance public notice may be scheduled, or, if the outside party is financially or otherwise unable to meet with the Agency employee, until the matter is presented to the Agency in writing.

PART 1013—GOVERNMENT IN THE SUNSHINE ACT, RULES FOR COMMISSION MEETINGS

Sec.
1013.1 General policy considerations; scope.
1013.2 Definitions.
1013.3 Announcement of commission meetings and changes after announcement.
1013.4 Public attendance at commission meetings.
1013.5 Recordkeeping for commission meetings.
1013.6 Public availability of transcripts, recordings and minutes of commission meetings.

Authority: 5 U.S.C. 552b(g).

§ 1013.1 General policy considerations; scope.

(a) In enacting the Government in the Sunshine Act, 5 U.S.C. 552b, the Congress stated the policy that, to the fullest practicable extent, the public is entitled to information regarding the decisionmaking processes of the Federal Government. The purpose of the Government in the Sunshine Act is to provide the public with such information while protecting both the rights of individuals and the ability of the Government to carry out its responsibilities. When the Commissioners of the Consumer Product Safety Commission hold meetings for the purpose of jointly conducting or disposing of Commission business they will conduct these meetings in accordance with the provisions of the Government in the Sunshine Act.

(b) This Part 1013 prescribes rules the Commission follows in carrying out the Government in the Sunshine Act.

§ 1013.2 Definitions.

(a) As used in this part 1013, the following terms shall have the respective meanings set forth in paragraphs (a), (c) and (d) of § 1011.2 of this subchapter: "Agency," "Commissioner," "Commission."

(b) *Majority of the Commission.* Three or more of the Commissioners.

(c) *Commission meeting.* The joint deliberations of at least a majority of the Commission where such deliberations determine or result in the joint conduct or disposition of official Agency business. This term does not include meetings required or permitted by § 1013.4(b) (to determine whether a meeting will be open or closed), meetings required or permitted by § 1013.3(e) (to change the subject matter of a meeting or the determination to open or close a meeting after the public announcement) or meetings required or permitted by 1013.3(c) (to dispense with the one week advance notice of a meeting).

§ 1013.3 Announcement of commission meetings and changes after announcement.

(a) The Secretary of the Commission is responsible for preparing and making public the announcements and notices relating to Commission meetings that are required in this part.

(b) The Agency shall announce each Commission meeting in the Public Calendar or Master Calender at least one week (seven calendar days) before the meeting. The Agency shall concurrently submit the announcement for publication in the Federal Register. The announcement and the Federal Register notice shall contain the following information:

(1) The date, time, and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting will be open or closed to the public;

(4) The name and phone number of the official who responds to requests for information about the meeting.

(c) If a majority of the Commission determines by recorded vote that Agency business requires calling a meeting without seven calendar days advance public notice, the Office of the Secretary shall announce this determination in the Public Calendar or Master Calendar at the earliest practicable time and shall concurrently transmit the announcement for publication in the Federal Register.

(d) When necessary and at the direction of the Chairman, the Secretary shall change the time of a Commission meeting after the announcement in the Public Calendar or Master Calendar. Any such change shall be entered on the Master Calendar and such other notice shall be given as is practicable.

(e) After announcement of a Commission meeting in the Public Calendar or Master Calendar, the Commission may change the subject matter of a Commission meeting or the decision to open or close a Commission meeting or portion thereof to the public, only if a majority of the Commission determines by recorded vote that Agency business so requires, and only if a majority of the Commission determines by recorded vote that no earlier announcement of the change was possible. The Commission shall announce the change in the Public Calendar or Master Calendar at the earliest practicable time before the meeting and shall concurrently transmit the announcement for publication in the Federal Register. Announcement of the change shall include the vote of each Commissioner upon the change. (See also § 1013.4(d) for requirements for Commission reconsideration of a decision to open or close a meeting to the public.)

§ 1013.4 Public attendance at commission meetings.

(a) Attendance by the public. Every portion of every Commission meeting shall be open to public observation except as provided in paragraph (b) of this section. Notwithstanding the applicability of the exemptions contained in paragraph (b) of this section, a Commission meeting or portions thereof shall be open to public observation when the Commission determines that the public interest so requires. The Commission shall take into account in all cases the relative advantages and disadvantages to the public of conducting the Commission meeting in open session. The number of public observers shall be limited only by availability of space. Attendance by the public shall be limited to observation and shall not include participation. To the extent their use does not interfere with the conduct of open meetings, cameras and sound-recording equipment may be used at open Commission meetings. The Chairman or presiding Commissioner shall insure that use of such equipment does not disrupt the meeting.

(b) Exemptions to the requirement of openness. The requirement in paragraph (a) of this section that all Commission meetings be open to public observation shall not apply to any Commission meeting or portion thereof for which the Commission has determined in accordance with the procedures for closing meetings set forth in paragraph (c) of this section, that such meeting or portion thereof is likely to:

(1) Disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and in fact are properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would, (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures or, (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Agency action. This provision does not apply in any instance where the Agency has already disclosed to the public the content or nature of its proposed action, or where the Agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Agency's issuance of a subpoena, or the Agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(c) Procedure for closing Commission Meetings. The following procedure shall be followed in closing a Commission meeting or portion thereof to public observation:

(1) A majority of the Commission must vote to close a meeting or portion thereof to public observation pursuant to paragraph (b) of this section. A separate vote of the Commission shall be taken for each matter with respect to which a Commission meeting is proposed to be closed to public observation. Each such vote may, at the discretion of the Commission, apply to that portion of any meeting held within the following thirty days in which such matter is to be discussed. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Any person whose interest may be directly affected if a portion of a Commission meeting is open may request in writing to the Office of the Secretary that the Commission close that portion of the meeting on the basis of paragraph (b)(5), (6) or (7) of this section. The Commission shall vote on such requests if at least one Commissioner desires to do so.

(3) Before the Commission may hold a closed meeting the General Counsel must certify that in his or her opinion, the meeting may properly be closed to

the public. Such certification shall be in writing and shall state each relevant exemptive provision.

(4) Within one day of a vote in accordance with paragraph (c) (1) or (2) of this section to close a Commission meeting or portion thereof, the Secretary shall make available to the public a notice setting forth:

(i) The results of the vote reflecting the vote of each Commissioner;

(ii) A full explanation of the action of the Commission closing the meeting or portion thereof, including reference to the specific basis for such closing (see paragraph (b) of this section) and an explanation, (without disclosing exempt information), of why the Commission concludes on balance, taking into account the relative advantages and disadvantages to the public of conducting the meeting in open or closed session, that the public interest would best be served by closing the meeting;

(iii) A list of all non-Agency personnel expected to attend the meeting and their affiliations; and

(iv) A certification by the General Counsel that in his or her opinion, the meeting may properly be closed to the public. If a vote to close a Commission meeting takes place on the same day as the meeting, the certification must be made available to the public before the meeting is convened.

(5) The public release of the portion of the written statement required by paragraph (c)(4)(ii) of this section may be delayed upon a determination by the Commission, by recorded vote, that such a notice, or portion thereof, would disclose information which may be withheld in accordance with paragraphs (b)(1) through (10) of this section.

(d) Reconsideration of a decision to open or close a Commission meeting. The Commission may, in accordance with the procedures in § 1013.3(3) or § 1013.4(c)(2) reconsider its decision to open or close a Commission meeting when it finds that the public interest so requires.

§ 1013.5 Recordkeeping requirements.

(a) Commission meetings, transcripts, recordings, or minutes

(1) The Agency shall maintain a complete transcript or electronic recording of each Commission meeting, whether open or closed, except that in the case of a Commission meeting or portion thereof closed to the public pursuant to subparagraph (10) of § 1013.4(b), the Agency may elect to maintain a set of meeting minutes instead of a transcript or a recording. Minutes of such closed Commission meetings shall:

(i) Fully and clearly describe all matters discussed, and

(ii) Provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in the meeting minutes.

(2) The transcript, recording or minutes of closed Commission meetings shall include the certification by the General Counsel or by his or her designee, required by § 1013.4(c)(3) and a statement by the presiding Commissioner setting forth the date, time and place of the meeting and the persons present.

(3) The transcript, recording, or minutes of any Commission meeting may include attachments such as Commission opinions, briefing papers, or other documents presented at the meeting.

(4) The transcript and accompanying material shall be maintained by the Secretary for a period of at least two years after the meeting, or until one year after the conclusion of any Agency proceeding with respect to which the meeting, or portion thereof, was held, whichever occurs later.

(b) Minutes of Commission Decisions. Minutes of Commission Decisions summarizing the issues presented to the Commission for decision and indicating the vote of each Commissioner document the decisions of the Commission, whether made at open or closed meetings or by ballot vote. The Commission's final Minutes of Commission Decisions, issued by the Office of the Secretary, constitute the official means of recording the decisions of the Commission and the votes of individual Commissioners.

§ 1013.6 Public availability of transcripts, recordings and minutes of commission meetings.

(a) Availability of transcripts, recordings or minutes. The Agency shall make available to the public the transcript, recording or minutes of Commission meetings. However, unless the Commission finds that the public interest requires otherwise, any portion of the transcript, recording or minutes of a closed Commission meeting which is determined to contain information which may properly be withheld from the public on the basis of subparagraphs (1) through (10) of § 1013.4(b) need not be made available to the public.

(b) Procedures for making available transcripts, recordings or meeting minutes. Meeting records will be made available for inspection, or copies will be furnished, as requested, in accordance with the following procedures.

(1) Requests. Requests for inspection or copies shall be in writing addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. A request must reasonably describe the Commission meeting, or portion thereof, inlcuding the date and subject matter or any other information which may help to identify the requested material.

(2) Responses to requests. The responsibility for responding to requests for meeting records is vested in the Secretary of the Commission. In any case where the Secretary or his or her designee, in his or her discretion, determines that a request for an identifiable meeting record should be initially determined by the Commission, the Secretary or his or her designee may certify the matter to the Commission for decision. In that event, the Commission decision shall be made within the time limits set forth in paragraph (b)(5)(iii) of this section and shall be final.

(3) Time limitations on responses to requests. The Secretary or his or her designee shall respond to all written requests for copies of meeting records within ten (10) working days. The time limitations on responses to requests shall begin to run as of the time a request for records is received and date stamped by the Office of the Secretary.

(4) Responses: Form and content. When a requested meeting record has been identified and is available for disclosure the requester shall either be informed as to where and when the records will be made available for inspection or be supplied with a copy. A response denying a written request for a meeting record of a closed Commission meeting shall be in writing signed by the Secretary and shall include:

(i) A reference to the specific exemptions under the Government in the Sunshine Act (5 U.S.C. 552b(c)) authorizing the denial; and

(ii) A statement that the denial may be appealed to the Commission pursuant to subparagraph (5) of this paragraph.

(5) Appeals to the Commissioners.

(i) When the Secretary or his or her designee has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Commissioners of the Consumer Product Safety Commission by writing to the attention of the Chairman, Consumer Product Safety Commission, Washington, D.C. 20207.

(ii) The Commission will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal begin to run as of the time an appeal is received by the Office of the Chairman and date stamped.

(iii) The Commission's action on appeal shall be in writing, signed by the Chairman of the Commission if the appeal is denied and shall identify the Commissioners who voted for a denial. A denial in whole or in part of a request on appeal for records of a closed meeting shall set forth the exemption relied on and a brief explanation (without disclosing exempt information) of how the exemption applies to the records withheld. A denial in whole or in part shall also inform the requester of his or her right to seek judicial review as specified in 5 U.S.C. 552b(h).

(6) Fees. (i) Fees shall be charged for copies of transcriptions of recording or minutes in accordance with the schedule contained in paragraph (b)(6)(iii) of this section.

(ii) There shall be no fee charged for services rendered in connection with production or disclosure of meeting records unless the charges, calculated according to the schedule below, exceed the sum of $25.00. Where the charges are calculated to be an amount in excess of $25.00, the fee charged shall be the difference between $25.00 and the calculated charges.

(iii) The schedule of charges for furnishing copies of meeting records is as follows:

(A) Reproduction, duplication or copying of transcripts or minutes: 10 cents per page.

(B) Reproduction of recordings: actual cost basis.

(C) Transcription (where meeting records are in the form of a recording only): actual cost basis.

(D) Postage: actual cost basis.

Dated: December 3, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix—Table of Proposed Revisions

Proposed revision	Existing regulation	Comment
1011.1(a)	1012.1(b)(1)	No substantial change.
1011.1(b)	1012.1(b)(2)	No substantial change.
1011.1(c)		New.
1011.2(a)	1012.2(a)	Same.
1011.2(b)	1012.2(b)	Same.
1011.2(c)	1012.2(c)	Same.
1011.2(d)	1012.2(d)	Same.
1011.2(e)		New.
1011.2(f)		New.
1011.3	1012.5	No substantial change.
1011.3(a)	1012.5(a)	Same.
1011.3(b)		New. Refers to Part 1013.
1011.3(c)		New. Refers to Part 1013.
1011.3(d)	1012.5(c)	No substantial change.
1011.3(e)	1012.5(d)	No substantial change.
1011.4	1012.3	No substantial change.
1011.4(a)(1)	1012.3(a)(1)	Same except for capitalization of "Public Calendar" and "Master Calendar."
1011.4(a)(2)	1012.3(a)(2)	Same.
1011.4(a)(3)	1012.3(a)(3)	Addition of Public Calendar to records submitted in annual report to the President and Congress.
1011.4(b)	1012.3(b)	Same.
1012.1(a)	1012.1(b)(3)	No substantial change.
1012.1(b)		New.
1012.2(a)		New.
1012.2(b)	1012.2(g)	Same.
1012.2(c)	1012.1(h); 1012.5(b)(1)(ii)(E)	Changed.
1012.2(d)	1012.2(i)	Same.
1012.3(a)	1012.3(a)(4)	No substantial change.
1012.3(a)(1)-(7)	1012.3(a)(4)(i)-(vii)	No substantial change.
1012.3(b)		New.
1012.3(c)	1012.5(b)(1)(i)(B)	Changes: requests for waiver of seven day notice to General Counsel for approval; last sentence omitted.
1012.3(d)(1)	1012.5(b)(1)(ii)(A)	Same.
1012.3(d)(2)	1012.5(b)(1)(ii)(C)	Changed.
1012.3(d)(3(	1012.5(b)(1)(ii) (B) and (C)	Changed..
1012.3(d)(4)	1012.5(b)(1)(ii)(F)	No substantial change.
1012.3(d)(5)	1012.5(b)(1)(ii) (D) and (G)	Changed.
1012.3(d)(6)		New.
1012.3(d)(7)	1012.5(b)(1)(ii)(D)	Same.
1012.3(d)(8)	1012.5(b)(1)(ii)(H)	Same.
1012.4 (a), (b) and (c)	1012.5(b)(2)(i)	Change: public attendance requirement only applicable to meetings involving substantial interest matters.
1012.4(d)(1)	1012.5(b)(2)(ii)(A)	No substantial change.
1012.4(d)(2)	1012.5(b)(2)(ii)(B)	Same.
1012.4(d)(3)	1012.5(b)(2)(ii)(D)	Changed.

Appendix—Table of Proposed Revisions—Continued

Proposed revision	Existing regulation	Comment
1012.4(d)(4)	1012.5(b)(2)(ii) (C) and (D)	Changed.
1012.4(d)(5)	1012.5(b)(2)(ii)(E)	Changed.
1012.4(d)(6)		New.
1012.4(d)(7)(i)	1012.5(b)(2)(ii)(F)	Changed.
1012.4(d)(7)(ii)	1012.5(b)(2)(ii)(G)	Same.
1012.4(d)(8)	1012.5(b)(2)(ii)(H)	Same.
1012.4(d)(9)	1012.5(b)(2)(ii)(J)	Same.
1012.4(d)(10)(i)		New.
1012.4(d)(10)(ii)		New.
1012.4(d)(10)(iii)(A)–(J)		New.
1012.5(a)	1012.6(c)	No substantial change.
1012.5(b)	1012.6(c)(1)(i)	Change: availability of summaries—see proposed 1012.5(b)(2).
1012.5(b)(1)	1012.6(c)(1)(i)	No substantial change.
1012.5(b)(2)	1012.6(c)(1)(ii)	Change: summaries available to public to extent permitted by law.
1012.5(c)	1012.6(c)(2)	Same.
1012.6	1012.7	No substantial change.
1012.7(a)	1012.8	No substantial change.
1012.7(b)(1)	1012.8(a)	Change: telephone call summaries available to the public to extent permitted by law.
1012.7(b)(2)	1012.8(b)	No substantial change.
1013.1(a)	1012.1(a)	No substantial change.
1013.1(b)		New.
1013.2(a)	1012.2(a)	New.
1013.3(b)	1012.2(e)	Same.
1013.3(c)	1012.2(f)	Changes only to reflect new section number.
1013.3(a)	1012.3(a)(5)	Same.
1013.3(b)	1012.4(a)(1)	Same.
1013.3(b)(1)–(4)	1012.4(a)(1)(i)(iv)	Same.
1013.3(c)	1012.4(a)(2)	Same.
1013.3(d)	1012.4(b)(1)	Same.
1013.3(e)	1012.4(b)(2)	Change: addition of Sunshine Act requirement of recorded vote that no earlier announcement of change was possible.
1013.4(a)	1012.4(c)	Change: addition of last two sentences re cameras and sound-recording equipment.
1013.4(b)	1012.4(d)	"Exception" changed to "Exemption" to reflect wording of Sunshine Act.
1013.4(b)(1)–(10)	1012.4(d)(1)–(10)	Same.
1013.4(c)	1012.4(e)	Same.
1013.4(c)(1)	1012.3(e)(1)	Same.
1013.4(c)(2)	1012.4(e)(2)	Same.
1013.4(c)(3)	1012.4(e)(3)	Addition of second sentence reflecting Sunshine Act requirement that certification be in writing and state relevant exemption provision.
1013.4(c)(4)(i)–(iv)	1012.4(e)(4)(i)–(iv)	Same.
1013.4(c)(5)	1012.4(e)(5)	Same.
1013.4(d)	1012.4(f)	Same.
1013.5(a)(1)	1012.6(a)(1)(i)	Only change: "Meeting Minutes."
1013.5(a)(1)(i)	1012.6(a)(1)(i)(A)	Same.
1013.5(b)(1)(ii)	1012.6(a)(1)(i)(B)	Same.
1013.5(a)(2)	1012.6(a)(1)(ii)	Same.
1013.5(a)(3)	1012.6(a)(1)(iii)	Same.
1013.5(a)(4)	1012.6(a)(1)(iv)	Same.
1013.5(b)	1012.6(b)	Change: "Records of Commission Action" changed to "Minutes of Commission Decisions."
1013.6(a)	1012.6(a)(2)	Same.
1013.6(b)	1012.6(a)(3)	Same.
1013.6(b)(1)	1012.6(a)(3)(i)	Same.
1013.6(b)(2)	1012.6(a)(3)(ii)	Same.
1013.6(b)(3)	1012.6(a)(3)(iii)	Same.
1013.6(b)(4)	1012.6(a)(3)(iv)	Same.
1013.6(b)(4) (i) and (ii)	1012.6(a)(3)(iv) (A) and (B)	Same.
1013.6(b)(5)(i)	1012.6(a)(3)(v)(A)	Same.
1013.6(b)(5)(ii)	1012.6(a)(3)(v)(B)	Same.
1013.6(b)(5)(iii)	1012.6(a)(3)(v)(C)	Same.
1013.6(b)(6)(i)	1012.6(a)(3)(vi)(A)	Same.
1013.6(b)(6)(ii)	1012.6(a)(3)(vi)(B)	Same.
1013.6(b)(6)(iii)	1012.6(a)(3)(vi)(C)	Same.
1013.6(b) 6(iii)(A)–(D)	1012.6(a)(3)(vi)(C)(1)–(4)	Same.

[FR Doc. 80-38200 Filed 12-11-80; 8:45 am]
BILLING CODE 6355-01-M

federal register

Friday
December 12, 1980

Part VIII

Architectural and Transportation Barriers Compliance Board

Compliance With Standards for Access to and Use of Buildings by Handicapped Persons; Proposed Rulemaking

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1150; Compliance With Standards for Access to and Use of Buildings by Handicapped Persons

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Proposed revised regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board hereby issues its proposed revised regulations to allow an award of reasonable attorney's fees and costs to a prevailing party other than the Federal Government in administrative proceedings. This notice solicits comments concerning whether the Board possesses legal authority to permit such an award; and if so, whether the proposed procedures and standards for determining the amount of attorney's fee awards are appropriate.

DATES: Comments must be received on or before February 10, 1981.

ADDRESS: Send comments to: Charles D. Goldman, General Counsel, Rulemaking Docket 80-4, Architectural and Transportation Barriers Compliance Board, Room 1010, 330 C Street, S.W., Washington, D.C. 20202. Comments received will be available for public inspection in Room 1014 from 9 a.m. to 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Mather, General Attorney (202) 245-1801 (voice or TDD).

SUPPLEMENTARY INFORMATION:

A. Background

The Architectural and Transportation Barriers Compliance Board was established under section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391 (29 U.S.C. 792). Section 502(d) authorized the Board to hold hearings and issue orders it deems necessary to ensure compliance with standards of buildings and facilities issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.* Section 502 also provides that an order of compliance issued by an administrative law judge be deemed a final order for the purpose of judicial review. The section also provides that any complainant or participant may obtain review of a final order.

The Board had issued proposed revisions of its regulations on practice and procedures on compliance hearings (36 CFR Part 1150) to reflect 1978 amendments to Section 502. 45 FR 28969. Pursuant to this notice, one commenter requested the Board to amend the 502 regulations to allow an award of attorney's fees to a prevailing party at the administrative level. The Board recently revised its regulations. In the preamble to the revised regulations, the Board noted that it wanted to study the matter of attorney fees further. 45 FR 78472 *et seq.*

Subsequently, the Board decided to publish in the Federal Register its proposed regulations to permit award of reasonable attorney's fees and costs to a prevailing party other than the Federal Government in administrative cases. Through this notice, the Board solicits comments on three questions:

A. Whether the Board presently possesses legal authority to award attorney's fees and costs?

B. If so, whether the proposed procedure for determining the entitlement to an attorney's fee award is proper? and

C. Whether the proposed criteria for calculating an attorney's fee is appropriate?

These issues are discussed below in sections B, C, and D, respectively.

B. The Legal Issue of Authority

The commenter asserted that the Board has authority to award attorney fees to participants in compliance proceedings. As the statutory bases for authorizing the Board to do so, the commenter cited sections 502 and 505(b) of the Rehabilitation Act. 29 U.S.C. 792, and 794(a), respectfully.

First, section 502 states that "the Board shall * * * conduct investigations, hold public hearings, and issue such orders as if deems necessary to insure compliance with the * * * (the Architectural Barriers Act of 1968)." *Id.* at § 792(d). The commenter asserted that these words, reasonably construed, authorize award of attorney's fees.

Second, section 505(b) of the Rehabilitation Act provides:

> In any action or proceeding to enforce or charge a violation of a provision of this Title (Title V of the Rehabilitation Act), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

92 Stat. 2983. The commenter contended that this section authorizes an award of attorney's fees for work done at the administrative level. For this position, the commenter cited the following cases: *Fischer* v. *Adams,* 572 F.2d 406 (1st Cir. 1978); *Parker* v. *Califano,* 561 F.2d 320 (D.C. Cir. 1977); *Johnson* v. *United States,* 554 F.2d 632 (4th Cir. 1977). The commenter also argued that such awards may be made by administrative agencies, relying on *Patton* v. *Andrus,* 459 F. Supp. 1189 (D.D.C. 1978); and *Smith* v. *Califano,* 446 F. Supp. 530 (D.D.C. 1978).

It is noted that contrary to *Patton* and *Smith,* a different court in the same district ruled that only a Federal district court is authorized to award attorney fees for administrative work. *Noble* v. *Clayton,* 448 F. Supp. 1242, (D.D.C. 1978).

C. The Proposed Procedures for Determining the Entitlement to an Award

The proposed rule provides that an award of attorney's fees be made to any party other than the Executive Director or the Federal Government who succeeds before the Board on the merits of the citation. Proposed § 1150.102(c). The phrase "party other than the Executive Director or the Federal Government" is not limited to complainants and participants but also to non-Federal respondents. For example, a private lessor of an allegedly noncomplying building who is named as a respondent and prevails on the finding of compliance in the proceedings is eligible for an award. The losing party is liable for costs. Proposed § 1150.104(a)(2). In the case of the losing Federal party, it can be either the Executive Director or the Federal respondent.

A party who seeks an award of attorney's fees has the duty to inform, in writing, the administrative law judge that he/she is retaining a representative in order to qualify for attorney fees. Proposed § 1150.104(a)(4). The decision of the judge is not final until the judge has made a determination on both the entitlement to and the amount of any attorney's fee awards. Proposed § 1150.105(b).

D. The Proposed Standards to Determine the Amount of Award

Proposed § 1150.104 has adopted the standards for awarding attorney's fees articulated in *Johnson* v. *Georgia Highway Express, Inc.,* 488 F.2d 714 (5th Cir. 1974).

It must be noted that in a very recent case, although the Court of Appeals for the District of Columbia Circuit confirmed the *Johnson* factors as relevant to the amount of award, it set forth a different fee-setting formula called the "lodestar." *Copeland* v. *Marshall,* No. 74-1822 (D.C. Cir., filed Sept. 2, 1980). The "lodestar" fee is computed by multiplying a reasonable hourly rate by the number of hours reasonably expended on the lawsuit. The reasonable hourly rate is that prevailing in the community for similar work. A reasonable hourly rate is the product of a multiplicity of factors: the

level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorneys' reputation, and the undesirability of the case. Then, the lodestar fee may be adjusted up or down to reflect other factors: The contingent nature of success; and quality of representation.

PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

1. It is proposed that Subpart J be amended by redesignating present headings §§ 1150.104 and 1150.105 as new headings §§ 1150.105 and 1150.106 and adding a new heading § 1150.104 as follows:

Subpart J—Posthearing Procedures; Decisions

Sec.
1150.104 Awards of attorney's fees or costs.
1150.105 Judicial review.
1150.106 Court enforcement.

2. It is proposed that § 1150.102 be amended by redesignating the present paragraph (c) as paragraph (e) and adding new paragraphs (c) and (d) as follows:

§ 1150.102 Decision.

* * * * *

(c) At the time of decision, the judge shall advise the prevailing party and his/her representative that any request for attorney's fees or costs must be documented and submitted within 20 calendar days for receipt. For the purpose of an attorney's fees award, a prevailing party is a party, other than the Executive Director or the Federal Government, who is prevailing on the merits of a citation.

(d) When the decision provides for an award of attorney's fees or costs, the amount of these awards shall be determined under § 1150.104. In the unusual situation in which the judge determines not to award attorney's fees or costs to a prevailing party, the judge shall set forth in its decision the specific reasons for denying the award.

* * * * *

3. It is proposed that §§ 1150.104 and 1150.105 be amended by redesignating the present §§ 1150.104 and 1150.105 as §§ 1150.105 and 1150.106 and adding new § 1150.104 as follows:

§§ 1150.104 and 1150.105 [Redesignated as §§ 1150.105 and 1150.106].

§ 1150.104 Awards of Attorney's Fees or Costs.

(a) In a decision under § 1150.102, the judge may award the prevailing party reasonable attorney's fees or costs incurred in the processing of the citiation.

(1) A finding of compliance or noncompliance raises a presumption of a prevailing party's entitlement to an award of attorney's fees.

(2) Any award of attorney's fees or costs shall be paid by the losing party.

(3) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government.

(4) Attorney's fees shall be paid only for services performed after the filing of the citation and after the prevailing party has notified the judge that he/she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the party. Written submissions to the judge which are signed by the representative shall be deemed to constitute notice of representation.

(b) When a decision of the judge under § 1150.102 provides for an award of attorney's fees or costs, the prevailing party's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the losing party and the judge within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the citation file. The amount of attorney's fees or costs to be awarded the prevailing party shall be determined by agreement between the prevailing party, his/her representative and the losing party. Such agreement shall immediately be reduced to writing. If the prevailing party, the representative and the losing party cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the judge shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(1) The amount of attorney's fees shall be made in accordance with the following standards: The time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

(2) The costs which may be awarded are those authorized by 28 U.S.C. 1920 to include (i) fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case; (ii) fees and disbursements for printing and witnesses; and (iii) fees for exemplification and copies of papers necessarily obtained for use in the case. Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

4. It is proposed that § 1150.105 be amended by designating the present paragraph as paragraph (a) and adding a new paragraph (b) as follows:

§ 1150.105 Judicial Review.

* * * * *

(b) For purposes of this part, the decision of the judge shall be final only when the judge makes a determination on all of the issues in the citation, including whether or not to award attorney's fees or costs. If a determination to award attorneys fees is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1150.104.

5. It is proposed that § 1150.113 be amended by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) as follows:

§ 1150.113 Amicable Resolution.

* * * * *

(c) A resolution may include a finding on the issue of noncompliance, an award of attorney's fees or costs, and must include any corrective action agreed upon.

* * * * *

Issued in Washington, D.C., on November 28, 1980.

Max Cleland,

Chairperson, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 80-38383 Filed 12-11-80; 8:45 am]
BILLING CODE 4000-07-M

federal register

Friday
December 12, 1980

Part IX

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Training Programs for Blasters and Members of Blasting Crews, and Certification Programs for Blasters; Final Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 850

Training Programs for Blasters and Members of Blasting Crews and Certification Programs for Blasters

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The regulations added to Chapter VII in this notice of final rulemaking establish minimal requirements for training and certifying persons involved in blasting in surface coal mining operations, as required by the Surface Mining Control and Reclamation Act of 1977 (the Act). The Act requires that regulations be promulgated which require the training, examination, and certification of persons who engage in or are directly responsible for blasting or use of explosives in surface coal mining operations (Section 719) for the purpose of ensuring that all such blasting is conducted by trained and competent persons (Section 515(b)(15)(D)). Subchapter M establishes minimal requirements for State and Federal Programs and for the Federal lands program in implementing these portions of the Act.

EFFECTIVE DATE: January 12, 1981.

ADDRESSES: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, 202-343-4006.

FOR FURTHER INFORMATION CONTACT: Dr. David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, (202) 343-4264.

SUPPLEMENTARY INFORMATION: Proposed rules for Subchapter M were originally published on September 18, 1978, 43 FR 41934-36. Reproposed rules were published in the Federal Register on June 29, 1979, (44 FR 38318) as 30 CFR, Chapter VII, Subchapter M, Part 850. Public hearings on the reproposed rules were held on July 31, 1979, in Washington, D.C.; Charleston, West Virginia; Knoxville, Tennessee; Indianapolis, Indiana; Kansas City, Missouri; and Denver, Colorado. Thirteen people commented on the reproposed regulations at these hearings, and transcripts of testimony were placed in the Administrative Record and processed in the same manner as all other written comment. In response to a specific request, the Office of Surface Mining (OSM or the Office) held one public meeting with two industry representatives on the substance of the reproposed rules. Advance public notice of the meeting was posted in the Administrative Record Office, Office of Surface Mining, indicating the date, time, place, topic, and parties involved. The Office received 20 written comments on the reproposed regulations from individuals, organizations, and one government agency.

Control mechanisms were used to ensure that all timely comments were considered or included in the administrative record. The preamble to these final rules contains the bases and purposes of alternatives considered and decisions made by the Office in responding to significant comments. The Office considered significant comments to be those urging the adoption of viable alternatives or questioning the provisions in the reproposed regulations, which provided reasonable rationale or justification supporting the recommendations or comments. Insignificant comments and those of a more general nature are included in the administrative record, but are not discussed in the preamble.

The Office is particularly grateful to those who took the time and effort to review the reproposed rules and submit comments. The comments have been most helpful in preparing the final version of this portion of OSM regulations.

Regulatory Analysis

The Final Regulatory Analysis (RA) which accompanied the permanent regulatory program of the Act, was published in March, 1979. The RA analyzed two issues relevant to Part 850 which were considered to have potential economic impact. In choosing regulatory alternatives for those issues, the Office has selected those alternatives which were determined to be most efficient and least costly in implementing the mandate of Sections 515(b)(15)(D) and 719 of the Act. Since the economic impacts of alternatives to be considered in implementing the final rules of Subchapter M are not considered to be significantly different from the alternatives previously analyzed in the published RA, the Office is of the opinion that no additional analyses of this type will be necessary.

Environmental Impact Statement

The Office has determined that environmental impacts resulting from the blaster training and certification program are not significant enough to warrant an environmental impact study. This program is integrally related to the blasting performance standards which were published in March of 1979 as final rules (44 FR 15404-15406, 15430-15432, March 13, 1979). A final Environmental Impact Statement accompanied promulgation of the blasting performance standards and was made available to the public on January 29, 1979.

General Accounting Office Review

Under Section 201(e) of the Act (30 U.S.C. 1211(e)), OSM is considered an independent Federal regulatory agency for purposes of 44 U.S.C. 3502 and 3512. As a result, all of its regulations which impose recordkeeping and reporting requirements on members of the public must be submitted to the General Accounting Office (GAO) for clearance pursuant to its regulations (4 CFR Part 10).

Some sections of these regulations require the collection, submission, or retention of certain information by States or blasters-in-charge. The purpose of GAO review is to assure that the information is obtained with a minimum of burden on the public and that unnecessary duplication of effort in providing information is eliminated.

OSM has identified the following sections of these final regulations as those imposing recordkeeping and reporting requirements: Sections 850.4(c)(1) and (7), 850.12(c), 850.14(a), (c) and (e)(1)-(3). These sections are therefore adopted subject to clearance by GAO, pursuant to 44 U.S.C. 3512, and will not be effective until OSM publishes a notice of GAO clearance.

Background

Authority and Basis

The purpose of Subchapter M is to implement Sections 515(b)(15)(D) and 719 of the Surface Mining Control and Reclamation Act. Section 515(b)(15) of the Act, as a performance standard, is applicable to all surface coal mining operations and requires all such operations to (emphasis added)—

(15) Insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

(A) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every

resident living within one-half mile of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to blasting;

(B) Maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(C) Limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(D) *Require that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority;*

(E) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request. The area of the survey shall be decided by the regulatory authority and shall include such provisions as the Secretary shall promulgate.

Section 719 of the Act directs the Secretary of Interior to promulgate regulations "requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations." 30 U.S.C. 1309.

The legislative history of Section 719 further clarifies Congress' intent as to training and certification of blasters:

> Persons who are responsible for use of explosives in surface mining—the most extensive use of explosives nationally—should be knowledgeable about how to protect mine workers, the neighboring public and property from the inherent dangers of the use of explosives. This new subsection providing for the training and certification of blasters is designed to encourage safety and minimize unnecessary damages to health and property caused by unqualified or ill-prepared personnel engaging in blasting operations during surface strip mining. According to geologists, explosives manufacturers, engineers, and government officials, proper blasting technique is one of the most significant factors in preventing fly-rock and minimizing ground vibration. The more efficiently an explosive is used, the less its energy dissipates into the surrounding rock and air as vibration; operators and the public alike benefit from such maximum-fracture, minimum-vibration blasts.
>
> An efficient method of controlling blasting problems would be through comprehensive training for those responsible for the use of explosives and blasting. Presently, very few States require the licensing of such persons. A program should also require passing an exam on information contained in an "explosive manual" dealing with the unique problems associated with surface coal mining and such activities near residential communities and water supply systems. Pennsylvania requires a 1-year training program under a "learner's permit" upon completion of a qualified course. 123 Cong. Rec. 3830–3831 (April 29, 1977), remarks of Congressman Murphy of Pennsylvania.

Since one of the major purposes of the Act is to protect society and the environment from adverse effects of surface coal mining operations (102 SMCRA), it is clear that Congress intended the blasting performance standards in Section 515(b)(15), coupled with Section 719, to be a principal means of protecting the environment and public health and safety from adverse effects of blasting in such operations. Consequently, 30 CFR 816.61–816.68 and 817.61–817.68 specify limits on blasting in surface coal mining operations, based specifically on Section 515(b)(15) of the Act. (In this preamble, these OSM regulations are referred to as the OSM blasting standards.) The Office is of the opinion that adherence to these standards will help to mitigate the "adverse effects" of blasting as Congress intended to prevent. The goal of Subchapter M is to require training, examination, and certification as necessary to ensure that those blasting standards are consistently satisfied.

To summarize, Congress clearly intended blasting personnel be trained and certified; and the purpose of such training and certification is to ensure control of the use of explosives so that persons, the environment, and property will not be harmed or damaged. Subchapter M is directed toward that purpose.

Who Needs To Be Certified?

In writing Federal regulations to implement these statutory requirements, the first question to be answered was "Who needs to be certified?" In referring to those who should be trained and certified, Sections 515(b)(15)(D) and 719 of the Act use the words "conduct," "engage in," and "directly responsible for" blasting or "use" of explosives. Since "engaging in" and "use" take place only at the blast site, the Office concluded that Congress intended only those persons who work at the blast site should be certified.

Additionally, some blasting standards specified by Congress in Section 515(b)(15) are not affected by work at the blasting site. For example, the requirement for a published schedule prior to blasting would not be part of the "use" or "engaging in" of explosives, nor does the schedule have to do with the "proper blasting technique" discussed in the legislative history. Thus, OSM has reached a second conclusion: Congress intended certification as a means to assure compliance with only those blasting performance standards which are affected by the "use" of explosives.

At first, OSM proposed that all persons who use explosives or engage in blasting must be trained and certified to ensure consistent conformity to Office blasting standards (43 FR 41934–40, September 18, 1978). However, after analyzing public comment on those proposed rules, the Office concluded that only a blaster-in-charge needs to be certified to ensure consistent conformity to Office blasting standards (44 FR 38319–38321, June 29, 1979).

"Blaster-in-charge" is defined as a person designated to be responsible for "ensuring that blasting operations *at the blast site* are conducted in compliance with the blasting standards set forth in these (OSM) regulations." (See § 850.5(b) of the final regulations below.) The Office is of the opinion that one certified, accountable person on each blasting crew will enable the permittee to conduct or execute blasting which is controlled within the applicable limits of 30 CFR 816.61–816.68 and 817.61–817.68.

Certified To Do What?

The Office has defined a blaster-in-charge as responsible, *at the blast site,* for ensuring the blast is designed, prepared, and executed in accordance with OSM blasting standards. It would not be reasonable to assume a person could carry out such responsibility in all situations. For example, it is unlikely that a blaster-in-charge could simultaneously supervise six different crews dispersed over several square miles at the same time. Thus, the job of the blaster-in-charge has been restricted to supervision of no more than one crew, composed of no more than 12 crew members, at one time. (See § 850.12(a) of the final regulations below.) Drillers need not be included in the crew, since the blaster-in-charge can inspect the blast holes, as well as the blast design, prior to loading and any redesign or redrilling or other necessary corrections in these phases can be accomplished before loading commences. The blaster-in-charge does not have to be present all

times, but must remain readily accessible to the crew during any absences. Additionally, the blaster-in-charge must be present when each shot is fired. (See § 850.12(b)(4) of the final regulations.) The Office has, with these specifications, attempted to define the job of the blaster-in-charge who is directly responsible for blasting.

At the same time, the Office has attempted to leave this job as flexible as possible to adapt to the many existing different methods of operations. For example, some blasters-in-charge for small operations may do practically all the blasting work alone—design, drill, load, and shoot. At the other extreme, a blaster-in-charge for a very large operation may inherit a blast design and drilled holes and be expected only to supervise a crew of 12 people who load the holes and put initiation systems in place. The Office is of the opinion that the same certification procedures will apply to both situations. For example, in both cases, the blaster-in-charge must check the blast design to ensure adequate and properly placed delays. In both cases, the blaster-in-charge must check drilled holes for such details as proper depth, spacing, water, and voids. Although one blaster-in-charge may do the work and the second may supervise, each must have the same knowledge to make certain that holes are properly loaded and stemmed.

A second example of flexibility is the degree of continuous supervision that a blaster-in-charge must provide. The Office holds the blaster-in-charge responsible for "direct supervision" during blast preparation and execution, meaning that no responsibility for supervision can be delegated. (See § 850.12(b)(3) of the final regulations.) However, the continuous actual presence of the blaster-in-charge is not required as long as the work which takes place during any absence can be adequately checked on returning to the blast site. (See § 850.12(c) of the final regulations.) At the same time, the Office holds the blaster-in-charge responsible for ensuring the crew has adequate training. (See § 850.12(b)(5) of the final regulations.) Thus, an untrained or a poorly trained crew member is going to require continual instruction and uninterrrupted supervision, while a well-trained worker may require only minimal instruction and checks at crucial stages.

To summarize, the responsibilities of the blaster-in-charge have been clearly defined to the extent necessary to implement the intent of the Act and to serve as the basis for certification. The blaster-in-charge will be certified as competent to:

(1) Ensure that blast design and execution meet OSM blasting standards and any additional applicable State blasting standards, and

(2) Directly supervise blast preparation and execution *at the blast site.*

The Office cannot, at this time, answer the question of "Certified to do what?" in more detail. However, through collection and analysis of data from working blasters, blasting supervisors, and blasting experts, the Office will be able to determine the tasks that must be accomplished to carry out these duties of a blaster-in-charge; the skills, knowledge, and abilities (SKA's) necessary to perform the tasks; and the level of SKA's necessary for competence in performing such tasks. The data analysis will also pinpoint any significant differences in job tasks at different mining operations, such as large or small operators; East, South, or West; anthracite or bituminous. Collection of such data has been underway since October, 1979, and on completion, the Office will publish the results to define more fully and precisely what the blaster-in-charge must be competent to accomplish.

How Can Competence Be Measured?

Measurement requires an instrument. Some of the most common instruments used to determine job competence are education, interviews, tests, experience requirements, physical examinations, and training. For example, to become a policeman, a person would very likely have to be a high school graduate (education), meet minimal physical requirements, successfully complete specialized training, and pass some job performance tests. The person is allowed to work as a police officer only after all four of these requirements are met. Each of the four requirements is a measurement of some special competence necessary for the job of police officer, and competence cannot be assumed until all four have been met satisfactorily.

It is common knowledge that many person currently working successfuly in the capacity of blaster-in-charge or in a very similar capacity have little formal education or training, proving that neither is necessary to do the job. Thus, the Office originally proposed a pre-employment test and experience requirement as the two most relevant and useful instruments for measuring competence necessary to do the job as a blaster-in-charge (see 43 FR 41934–36, September 18, 1978). A properly constructed test can measure the knowledge and ability necessary to do job tasks; relevant experience assures familiarity with equipment and some past demonstration of basic job skills.

Why Validate Measuring Instruments?

If competence is to be assessed accurately and reliably, the instruments used to measure that competence must be objective, uniform, and standardized. Unless a standard is first defined for the instrument, unless the instrument is constructed to measure the standard, and unless the instrument is used correctly, then it may be measuring factors that are totally irrelevant to job performance. For example, a preemployment test could be measuring only the number of correct answers, or an experience requirement could be measuring only length of employment.

In reviewing existing tests and experience requirements for blasters, the Office did not find existing instruments that had been constructed to measure ability to blast in accordance with OSM blasting standards. In fact, there were no data to prove or disprove what existing tests measured, how well or how consistently they measured. Since existing tests have not been constructed to measure any clearly defined standard of competence, the Office could not determine exactly what or how well they measure. Thus, the Office could not use them or approve their use in fulfilling Congress' intent that persons be assessed as competent to conduct blasting or use explosives in a controlled and safe manner. Consequently, new instruments had to be developed to implement Sections 515(b)(15)(D) and 719 of SMCRA.

Other Legal Reasons for Validation

There are additional legal implications in imposing or using measurements of competence as a basis for certification, licensing, and employment.

In August, 1978, four Federal agencies (Equal Employment Opportunity Commission, Department of Labor, Department of Justice, and the Civil Service Commission) issued the Uniform Guidelines on Employee Selection Procedures (43 FR 38290–38315). The Guidelines set forth standards of validity for tests and other selection procedures which are used as a basis for any employment decision and are to be applied to persons subject to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Executive Order 11246, or other equal employment opportunity requirements of Federal law. The Office has assumed application of the technical standards of validity contained in the Guidelines to

any selection procedures required by OSM under the blaster training and certification program for three reasons:

(1) Title VII may impose liability on the Office if its requirements are not job-related;

(2) Even if Title VII does not apply, OSM may be liable under the Fifth and Fourteenth Amendments to the Constitution; and

(3) OSM must comply with numerous Executive Orders [1] requiring equal employment opportunity.

Development of a Valid Test

What is the difference between a "test" and a "test which measures?" How does one distinguish between the two? The common characteristics that differentiate measuring instruments are to be found in their fundamental construction and use.

To construct a measuring test and experience requirement, OSM began with a job analysis, which also served as the foundation for all later steps in the process. 30 CFR 816.61–68 and 817.61–68 hold the permittee responsible for meeting all OSM blasting standards. However, Part 850 holds the blaster-in-charge responsible only for blasting standards that relate to activities *at the blast site.* Thus, the purpose of the job analysis was two-fold: (1) To determine what happens at the blast site, i.e., what tasks are performed there, and (2) to determine which of the tasks affect Office blasting standards.

The total domain to be tested is competence to blast in accordance with OSM regulations, because that is the extent of OSM's authority under the Act. Thus, tasks performed at the blasting site which do not affect OSM blasting standards will not be represented on the test or in the experience requirement. As an example, any question on the test or any experience requirement must be justified as follows:

OSM Standard: control peak particle velocity
= task 1: use of scaled distance equation
= questions 1,3,5,8

The proportion of items on each task covered by the test is determined by the relative importance of that task to OSM standards. The test will therefore be constructed to sample, in logical proportions, those skills, knowledges, and abilities necessary to perform the identified tasks of a blaster-in-charge. The Office has interviewed approximately 100 working blasters, supervisors, and contract blasters in eight states to delineate the tasks performed at the blast site. They were asked the following questions for approximately 100 identified tasks: Do you (or someone else) do this? How often? What happens if you do not do it right? How long did it take you to learn to do this? Where did you learn to do it? Each interviewee was also asked to add any additional tasks to the list.

Fifteen blasting experts representing coal companies, explosives manufacturers, state and federal government, and academia were convened to review the tasks and relate them to OSM blasting standards. Items were written (and illustrated) to test the knowledge, skills, and abilities necessary to perform each related task, then reviewed by representatives from 18 affected states and the federal government. The items were subsequently revised and two equivalent forms of the total test were pilot tested on groups of working blasters in five states to determine the reliability of each item and each form of the test. A manual is being prepared, and representatives from each affected state will be trained to ensure uniformity in testing situations.

This synopsis of OSM's test development efforts has traced the steps necessary to develop a valid instrument to measure competence. As proof of validity, the Office will have data to show that each test queston or each required element of experience is related to a skill, knowledge, or ability necessary to perform blasting in accordance with OSM blasting standards. This method of construction, combined with the uniform testing procedures to be outlined in the test manual, will produce a test that measures competence, as distinguished from a test that merely contains questions on blasting.

Schedule for Implementation of Subchapter M

Regulations for this Subchapter are now final and complete except for the qualfication requirements in §§ 850.14(a) and the experience requirements in § 850.14(a) and (e)(1)(2) and (3). As soon as validity studies are complete, these three subsections will be reproposed, based on findings of the studies.

The Office will hold hearings to receive testimony on these proposed new subsections and will also invite written comment. After comments have been analyzed and answered, final regulations for these four subsections will be promulgated, and Subchapter M will be complete.

Once the complete subchapter M is finally promulgated, States that seek primacy under the permanent program will have an additional 6 months to prepare and submit to OSM a blaster training and certification element for their permanent State programs. That submission will then be reviewed and approved or disapproved according to the procedures and schedule of 30 CFR Parts 731 and 732. Section 850.11 entitled "Applicability" has been added to these final rules to clarify this schedule and provide that a hearing will be held on State programs concerning blaster training and certification. In States where a Federal program is being established under 30 CFR Part 736, the Secretary will implement a blaster training and certification program within six months after (1) this complete part has been promulgated or (2) a Federal program is established, whichever is later. For operations on Federal lands, the blaster certification and training program will be administered as part of the Federal Lands Program established by 30 CFR Subchapter D. If the Federal lands are covered by a State-Federal cooperative agreement, that agreement may be amended to enable the State to administer the blaster program on those Federal lands.

Essential Elements of State Programs

All State programs must incorporate the validated certification instruments—examination and experience requirements—developed by the Office through validation studies, unless the State submits alternatives or substitutions which conform to the criteria under 30 CFR 730.11 or 731.13. The Office cannot approve use of alternative or additional certification requirements unless such requirements (tests, experience requirements, educational requirements, etc.) have been validated in accordance with the technical standards set forth in the Uniform Guidelines for Employee Selection Procedures (43 FR 38300–38308, August 25, 1978).

When states propose alternative or additional certification requirements under the provision of 30 CFR 730.11 or 731.13, "more stringent" or "as stringent" will not be interpreted to mean a test or other requirement that is "tougher" or "as tough." Rather, degrees of "stringency" depend on the relative validity and reliability of proposed tests or experience requirements, e.g., is the test a better or an equivalent measurement of competence for a blaster-in-charge in State X: does the test measure such competence more consistently or as consistently; and what verification exists to prove better,

[1] Executive Order No. 11478, 34 FR 12985 (1969), as amended by Executive Order No. 11590, 36 FR (1971), reprinted at 42 U.S.C. 2000e. See also Executive Order No. 11246, FR 12319 (1965), as amended by Executive Order No. 11375, 32 FR 14303 (1967), reprinted at 42 U.S.C. 2000e.

more consistent, or equivalent measurement? In other words, the proposed alternative test could have harder questions or more questions and yet not be considered "as stringent" because there is no proof that it measures the desired competence. Amendments to State programs to implement Subchapter M must contain hearing procedures to implement § 850.14(f) of the final regulations. States are free to propose any procedures that provide essential elements of due process. Additionally, state program amendments must contain a table of possible offenses and penalties to implement § 850.14(f)(i)–(v). Possible offenses under § 850.14(f)(ii) will be further delineated through the validity study, *i.e.*, the specific standards which are the responsibility of the blaster-in-charge will be determined through the study, and possible offenses under § 850.14(f)(ii) should be confined to those responsibilities.

Analysis of Comments

The following paragraphs contain a discussion of all substantive comments received in response to the reproposed rules for Part 850 (Subchapter M). In some instances, where several commenters submitted suggestions and criticisms with regard to a particular rule, comments have been combined and answered in a discussion of all proposed alternatives for that specific section and other affected sections. In other cases, comments and accompanying rationale are discussed individually. In all instances, the Office's rationale for making or declining to make changes is presented in response to comment.

Section 850.1—Scope

This section defines the parameters of Part 850. One such parameter is the establishment of "program requirements for the training of persons to engage in and conduct blasting or to use explosives in surface coal mining and reclamation operations."

One commenter suggested substitution of the word "guidelines" for "requirements" in § 850.1(a), since the Office requires no specific training to become a certified blaster. Section 850.1(a) describes the program requirements specified in Subchapter M. The word "requirements" refers to the training requirements for Federal, State and Federal lands programs (§ 850.13), as well as the requirement that all members of blasting crews be adequately trained to perform assigned tasks (§ 850.12(a)(3) and (b)(5)). Thus, the Office declined to accept this suggestion. The reference in the reproposed rule to "operator" has been changed to "permittee" in order to use terminology consistent with the Act and OSM's permanent regulations.

Section 850.2—Objective

This section sets forth the purpose of Part 850. One commenter suggested deletion of the word "training" from the statement of purpose section, because the Office is requiring no specific, formal training for blasters or crew members. The objective stated in this Section refers to the training programs that regulatory authorities must provide. Under § 850.13, the Office is required to develop comprehensive training materials and regulatory authorities are required to provide training programs which include development of State-specific materials, delivery of instructor training and blaster training, making training materials available, and encouragement of on-the-job training. Since the objective of Part 850 is to establish these training programs for the purpose of ensuring that only trained and competent persons conduct blasting, the Office is of the opinion that use of the word "training" in § 850.2 is correct, and it has not been deleted.

Section 850.4—Responsibilities

This section apportions responsibilities for training and certification programs among OSM Headquarters, OSM Regions, and the States. The final rule for this section has been revised in response to comments as discussed below. Additional editorial changes have been made to clarify the intent of the drafters and to ensure that the respective responsibilities of the Director, Regional Directors, and States, particularly in the context of State, Federal and Federal lands programs, are adequately spelled out. A new § 850.4(a)(4) has been added to reflect the Office's responsibility under Parts 731 and 732 to approve or disapprove State blasting programs designed to implement Subchapter M.

Commenters suggested that procedures in § 850.4(a)(3) for distributing Office-developed training materials be clarified. One commenter proposed to have OSM reword this Section to require that the Office mail notification to all operators when initial or updated training materials are available. Another commenter pointed out that operators should not obtain materials through OSM Regions, since the Regions may not make the operator aware of additional requirements that have been imposed by individual States.

While these suggestions have merit, the Office is of the opinion that these are the kinds of problems best solved through internal administrative procedures and not through regulations. For example, a printed notice, distributed with OSM-developed materials, could be used to inform operators that States may have additional certification requirements not covered in such materials. To place such procedures in the regulations would preclude any future flexibility in solving simple administrative problems, and the Office has therefore declined to accept these suggestions.

One commenter declared that, under § 850.4(b)(3), OSM should limit its monitoring of blaster training and certification under State programs to analyses of violations written under such programs. This commenter is concerned about unnecessary duplication of effort in reporting, inspections, statutory interpretation, and compliance accomplishment.

The Office is of the opinion that analyses of violations alone would not be sufficient information to determine whether States were actually complying with Subchapter M requirements. For example, OSM will need data about blaster training courses and instructor training to ensure States are actually providing those services, as required by § 850.13. Additional data about numbers certified and numbers of suspensions and revocations will be necessary to determine whether States are testing and certifying sufficient numbers of blasters, whether appeals systems are operating adequately, etc. Thus, the Office did not accept this limitation.

One commenter wanted §§ 850.4(b)(5)(6) and (c)(5)(6) amended to require that OSM Regions and States provide instructor training and blaster training materials to miners' representatives.

As reproposed under § 850.4(b)(5), anyone can obtain training materials through OSM Regions. "Providing materials" in this section does not necessarily mean giving materials. Rather, it means OSM Regions are to make such materials available through purchase and provide information to anyone, upon request, as to how materials can be obtained. Thus, miners' representatives could obtain training materials from OSM Regions under this Section.

Under reproposed § 850.4(c)(5), States acting as regulatory authorities are obligated to provide such materials only to operators. Since the Office wishes to encourage blaster training from every source, the commenter's suggestion has been accepted, and this Section has been reworded in the final rules to make States acting as regulatory agencies responsible for providing training course

materials to all requesters, which may include miners' representatives.

Under reproposed §§ 850.4(b)(6) and 850.4(c)(6), OSM Regions and States acting as RA's are required to provide instructor training only for the purpose of assisting operators. The permittee is responsible to ensure that only certified blasters serve as blasters-in-charge and that blasting crew members are adequately trained (§ 850.12(a)). Thus, it is the permittee who needs trained instructors to teach courses in blasting, and the primary purpose of instructor training is to assist operators in carrying out those responsibilities. There is nothing in Part 850 regulations to preclude regulatory authorities' allowing persons other than operators' designees to attend instructor training. However, since available resources of OSM Regions and the States are bound to be limited and since training of instructors other than those designated by operators is not considered necessary to implement the intent of Sections 515(b)(15)(D) and 719 of the Act, the Office did not impose further obligations for instructor training in the final rules.

The Office received several comments on the blaster training courses to be provided under § 850.4(b)(6), (c)(6) by regulatory authorities, as resources permit.

These comments prompted consideration of the following alternatives: 1. Leave all blaster training to operators, 2. Require OSM Regions to provide all blaster training courses needed by operators, 3. Leave these rules as reproposed and require regulatory authorities to provide blaster training courses, when resources permit, especially to employees of small operators. The Office has adopted alternative No. 3 based on the following rationales.

A commenter wanted to delete all references to blaster training. This commenter believes that blaster training requires hands on experience, which regulatory authorities cannot provide. He further pointed out that each operator has a particular way of doing things, an additional reason that any blaster training would be better carried out at the minesite.

These sections, as reproposed, do not preclude training by operators. To the contrary, operators will probably have to do much of their own training, especially in the initial stages of the program. However, the regulatory authority will want to certify blasters who can meet OSM blasting standards at any mine, not just a particular mine. OSM is developing and will make available a training course which covers all areas of the nationwide certification test. The State regulatory authorities will develop and make available training materials to cover any relevant State additions or differences, and will train persons designated by operators as instructors. Thus, operators will be assured of the opportunity to conduct a course that covers all test requirements and can add any local requirements or subtract any portions considered superfluous. Since the rules, as reproposed, do not preclude hands-on training, which the commenter believes necessary, this section has not been changed in the final rules.

Another commenter wanted the regulations amended to require that, when the Office is the regulatory authority, it will provide all blaster training courses needed by operators' employees. This commenter feels that requiring operators to perform training places an unfair monetary burden on the operator. Also, operators will not be able to budget accurately for blaster training because they will not know, in advance, how much training will be needed.

Under § 850.4(b) and (c), both the Department and the State regulatory authorities are required to assist the permittee by making materials and instructor training available for a comprehensive blaster training course. Permittees can acquire that course, then acquire training for their instructors, and schedule training as needed, at their own convenience. The Office has made no specific formal training requirements—some blasters may need no training, some may need training in only one or two areas, and others may need the total course. Under the final regulations, permittees have the flexibility to offer as much training as is needed to meet their own needs, at their own convenience. The final rules are designed to assist the permittee in carrying out that responsibility. The Office is of the opinion that providing training for employees is the responsibility of the permittee; it is an ordinary expense of any business to ensure that employees are competent to function within any legal constraints.

Section 850.5—Definitions.

This Section defines three terms, as used in Part 850: Blaster, blaster-in-charge, and blasting crew.

One commenter complained that the reproposed definitions for "blaster" and "blaster-in-charge" in § 850.5(a) and (b) were confusing. In some instances both words seem to refer to the same person; in other sections of the regulations, they seem to refer to two different people. A second commenter asserted that the reproposed definition for blaster-in-charge contradicts existing operations under some union contracts where the union shooter or blaster prepares and executes the blast and the blasting supervisor, or blaster-in-charge, supervises the blast. Some union contracts do not allow the supervisor to perform any work on the execution of the blast. A third commenter pointed out that if the blaster-in-charge must "supervise" and "be responsible" for the blast, union members under some contracts could not become blasters-in-charge. These commenters wanted *blaster* to refer to the "union shooter" and *blaster-in-charge* to refer to the blasting foreman or supervisor.

In answer to these comments, "blaster" is defined in reproposed § 850.5(a) as a person who is "certified to prepare, execute, and supervise blasts * * *" "Blaster-in-charge" is defined in reproposed § 850.5(b) as a "certified person *designated by the responsible management official* * * * to be responsible for ensuring that blasting operations * * * are conducted in compliance with the blasting standards * * *" Thus, a blaster simply means a certified person; a blaster does not become a blaster-in-charge until designated as such by an operator. A blasting crew could have two, three, or more certified blasters as members, but there will be only one blaster-in-charge, who is the certified person designated by management as *responsible* for ensuring the blast meets all performance standards set forth in § 816.61–68 or § 817.61–68 of the permanent regulatory program.

Under the rules as reproposed, a blaster-in-charge could actually prepare and execute the shot alone, or do part of the work and supervise the remaining parts, or supervise the entire process and do none of the work. Thus, neither the definitions in § 850.5(a) and (b) nor other sections of Subchapter M contradict the situation described by the commenter as the typical work situation for blasting under a union contract where there is a supervisor and a "shooter." However, the rules hold the blaster-in-charge responsible for the blast and do require that the blaster-in-charge supervise the crew. It is possible that, under existing contracts, some union members could not become blasters-in-charge. However unions and management in those situations may be able to work our agreements where the blaster-in-charge is not considered a management position. For example, the Office is aware of some existing contracts where responsibilities of the blaster-in-charge are rotated daily or weekly among certified blasters; and

those situations do not preclude a union member's serving as a blaster-in-charge. Additionally, if the Office adopted the suggestion of these commenters and required that two certified persons (a shooter and a foreman) be responsible simultaneously, responsibility for the blast would be divided between those two persons. Such a division would make it impossible to hold either the shooter or the foreman responsible in the event the blast violates blasting standards, and would therefore preclude imposition of suspension, revocation, or other penalties which are necessary to penalize or remove incompetent, careless, or otherwise dangerous persons from this occupation. The Office has therefore declined to accept these comments and has not changed the final rules.

Several commenters claimed a two-tiered certification system would improve strip mine blasting, since the "shooter" needs to be better trained, as well as the person who supervises the blast.

As discussed in the preamble to the reproposed rules (44 FR 38320–38321, June 29, 1979), the Office does not consider a two-tiered certification necessary or practical for several reasons. First, the Mine Safety and Health Administration (MSHA) requires that all mine employees have limited training in the safety hazards of blasting. Second, under Subchapter M, crew members do not make decisions which affect OSM blasting standards. Third, crew size is limited, under Subchapter M, to 12 members, a sufficiently small group that the blaster-in-charge can be expected to instruct and supervise adequately to ensure compliance with blasting standards. Fourth, in many mining operations, crew members often change jobs after a short time or are absent a great deal of the time, and certification or formal training requirements for those persons would be an ongoing, costly process. Fifth, requiring two or more certified persons on a crew to be simultaneously responsible for different parts of the blast would make it impossible to determine exactly who is responsible in the event a blast violates standards.

Nothing in the rules precludes better training, even certification, of the shooters on blasting crews. Under § 850.13, all regulatory authorities are required to provide programs which include assistance to operators in training their employees and encouragement of on-the-job training and experience for potential blasters. However, for the five reasons cited above, the Office declines to accept the suggestions that two persons, a blaster and blaster-in-charge, be certified and responsibility for blasting be divided between them.

Section 850.11—Applicability

As explained above, this new section has been added in order to explain the schedule for making this subchapter applicable to the States which seek primacy, and to both Federal programs and the Federal lands program which the Department will implement.

Section 850.12—General Program Requirements

This Section establishes the requirements for permittees and blasters-in-charge to maintain certain conditions at the blast site which are necessary to ensure that a blaster-in-charge is fully in control of blasting operations. Such controls are necessary for the blaster-in-charge to conduct blasting in accordance with blasting performance standards. References in the reproposed rule to "operator" have been changed to "permittee" to be consistent with uses of the latter term in the Act (Section 701(18)) and OSM's regulations (30 CFR 701.5).

One commenter objected to the requirement of § 850.12(a) for the permittee to designate a blaster-in-charge for each blast on the basis that this practice will require unnecessary records and generate tremendous amounts of paperwork. This commenter feels an initial designation of a blaster-in-charge for all blasting should be sufficient.

As reproposed, § 850.12(a) did not dictate any one form of formal designation, as long as the identity of the blaster-in-charge for each blast is documented prior to preparation for and execution of the blast. One blaster-in-charge can be designated for all blasting, as long as that person meets the definition of a blaster-in-charge under § 850.5(b) and is assigned the duties under § 850.12(b). The designation could be by crew—a person is named as blaster-in-charge for all blasts a specific crew prepares. The operator could use location and specify a large area within which a designated blaster-in-charge is responsible for all blasts. This Section is not intended to require a *separate* written designation of a blaster-in-charge for each blast. Accordingly, this comment prompted no change in the final rules.

One commenter contended the permittee should not be held responsible, under §§ 850.12(a) (3), (4) and (5) for ensuring that crew members are adequately trained, for limiting the size of the crew, or for ensuring the blaster-in-charge supervises only one crew at a time. This commenter felt these are duties of the blaster-in-charge and, because the permittee may not be a certified blaster, the permittee should not be responsible for these items.

Section 515(a) of the Act states that "Any permit issued under any approved State and Federal program pursuant to this Act shall require that * * * operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate." One of these "performance standards" is found in § 515(b)(15)(D) which requires that "all blasting operations be conducted by trained and competent persons as certified * * *." The rules in Part 850 have been written to implement that performance standard, and the permittee is therefore responsible for such implementation. Thus, even if the permittee's responsibilities in question were not spelled out under §§ 850.12(a) (3), (4) and (5), the permittee would still be responsible to ensure these conditions are met in blasting operations. Removing these sections will make the permittee no less responsible, but including them does clarify the permittee's responsibility. Therefore, no change has been made for the final rules.

Numerous comments were submitted on §§ 850.12(a)(4) and (b)(6) requiring that the size of the blasting crew be limited to 12 members and the dispersion of any one crew be limited to one operational pit. Based on analysis of these comments, OSM considered the following alternatives:

1. Place no limits on the size of the crew;
2. Allow more than 12 members to a crew; add a provision that an additional certified blaster may be used to assist the blaster-in-charge if the number of crew members exceeds 12;
3. Retain 12 as the limit to number of crew members, but exclude drillers as part of the crew;
4. Place no limits on the dispersion of the crew. Delete the words "one operational pit";
5. Delete the words "one operational pit" and add a provision that the blaster-in-charge must be readily accessible to crew members at all times; and
6. Define *one operational pit* as "one operational area as defined by an MSHA legal identification number (30 CFR 41.20)," and leave that term in the regulations to limit the blaster's span of control.

The Office proposed limits on the size and dispersion of the blasting crew in order to define a span of control which a

blaster-in-charge could reasonably be expected to exert and still remain in compliance with the rules contained in Part 850. One commenter wanted no limit to the size of the crew, asserting that each blasting job differs in size and complexity, so only the operator can determine the size of the crew. A second commenter said that limiting crew size compromises safety by removing flexibility (but gave no example); a third suggested crew size be determined through validity studies; a fourth contended that drillers should be excluded because they do not need the constant supervision of a blaster-in-charge; and a fifth commenter suggested adding to § 850.12(a)(4), a provision that the operator must assign an additional certified blaster-in-charge with larger crews. Such an addition would make it possible to use larger crews and avoid the necessity for waivers as required in § 850.12(a)(4).

In answer to these comments, the Office is of the opinion that, without a limit on the size of crew, a blaster-in-charge could conceivably be assigned a crew of 30, 50, 100 or more which could be an unreasonble number for any certified person to directly supervise in accordance with § 850.12(b)(3). Because the Office is eliminating the specific limit for dispersion of the crew at any given time, the size of the crew represents the only specific limit to the blaster-in-charge's span of control. Other job requirements are left flexible. For example, the crew can be dispersed or contained. Secondly, the continuous presence of the blaster-in-charge is not required as long as the blaster-in-charge remains readily accessible at all times and provides the prior instruction and subsequent checks of the work necessary to ensure conformance to OSM blasting standards. Thirdly, the blaster-in-charge must ensure the crew has adequate training.

Obviously, the blaster-in-charge will have to provide less continuous supervision to a crew that is well-trained than to a crew whose members have little training. In the case of the well-trained crew, the blaster-in-charge can rely more heavily on checks of work at critical stages rather than perform continuous supervision that will be necessary for crews that have little experience or training.

The Office is of the opinion that the necessary direct supervision and accountability cannot be expected from a blaster-in-charge who supervises more than 12 crew members under such possibly varying conditions. Further, if a permittee believes that local circumstances or methods require a larger crew, he can apply to the regulatory authority for a waiver of the restriction on crew size (under § 850.12(a)(4)), provided the permittee can ensure adequate direct supervision by the blaster-in-charge. The Office believes that the flexibility provided in § 850.12(a)(4) is sufficient for industry needs.

Finally, adding certified blasters to assist the blaster-in-charge with larger crews would mean delegation of some of the responsibilities, as defined under § 850.12(b), which belong to the blaster-in-charge. Such delegation would result in a lack of accountability because it would be impossible to determine which person—the second certified blaster or the blaster-in-charge—is responsible for blasting violations.

For the reasons cited above, the Office rejected these comments on crew size, and the limit of 12 crew members remains in §§ 850.5, 850.12 (a)(4) and (b)(6) as a final rule.

However, the Office agrees with one commenter who asserted that drillers need not be included as part of the crew. In many operations, according to this commenter, drillers are supervised by a drilling supervisor and the drillers work well ahead of the loading crew.

The Office agrees with the contention that the blaster-in-charge can inspect inherited drilled blasting holes and make any adjustments prior to loading that are needed to ensure OSM blasting standards will be met. On the other hand, the Office does believe it good safety practice to have routine communication between drillers and the blaster-in-charge to ensure timely awareness by the blaster-in-charge of water, voids, or other potential hazards. Agreement with this commenter did not result in a change from the reproposed rules, since the rules have not specified that drillers will or will not be counted as crew members.

Commenters were quite concerned about the proposal to limit location of the crew to one operational pit. They pointed out that operational pit is too restrictive in some cases and not restrictive at all in other situations. One operational pit may, in some cases, be larger than one or two mines even when using the MSHA definition from 43 CFR 41.20. However, commenters proposed no substitute provision to limit, by location, the span of control of the blaster-in-charge. They did give two examples of how crews are dispersed when at work—sometimes with one blaster-in-charge for every three-person crew, with the entire crew working on the same shot in the same location; sometimes with one blaster-in-charge for an eight-person crew (counting drillers) simultaneously working on two or three different blasts. Thus, the only necessity for limiting location seems to be that the blaster-in-charge be readily accessible to the crew, even during temporary absences, and be present when the blast is detonated (ensuring a last-minute check on wiring, circuits, etc.).

In the preamble to the reproposed rules, OSM stated that a blaster-in-charge need not be present at every moment during the preparation of a blast (44 FR 38325). For example, the work of drillers can be better checked for accuracy after holes are drilled. In the same preamble, direct supervision (§ 850.12(b)(3)) was interpreted to mean supervising, instructing, and checking the work of crew members without intervening persons (44 FR 39325). As long as those three duties can be adequately performed to ensure the blast will not violate standards, actual presence of the blaster-in-charge with the crew at all times is not necessary.

After consideration and analysis of comments, the Office decided that it is not necessary to limit the dispersion of the crew, as long as crew size is limited to 12 members and the requirement for direct supervision by the blaster-in-charge is retained. Thus, the final rules contain the words "supervised by a properly certified blaster-in-charge who is continuously readily accessible to crew members" in § 850.12(a)(4); and the phrase "at one operational pit" has been deleted in §§ 850.5(c), 850.12(a)(4), and 850.12(b)(6). Ready accessibility can be given a more restrictive meaning by regulatory authorities if local conditions warrant closer supervision than will result from this change.

Commenters were most concerned that the dates in reproposed § 850.12(b) would not allow enough time to train, test, and retest blasters and comply with the requirement for full implementation. Commenters suggested an additional time of up to 12 months be allowed, after OSM approval of a State program, to train, test, and certify all blasters.

After analysis of the comments, OSM is in agreement with the commenters that full implementation of this program will require more time than allowed in the reproposed rules. Consequently, all dates and time limits have been removed from §§ 850.4(b)(2)(6)(7) and 850.12(b)(1). Section 850.11, "Applicability," has been added, with provisions to give States 6 months, beginning from the date of promulgation of complete and final Federal regulations for Subchapter M, to submit a blaster training and certification program to OSM.

Additionally, OSM is now developing programmed training materials which will teach all skills, knowledge, and abilities necessary to function as a blaster-in-charge. The Office anticipates the training course will be complete before OSM promulgates complete regulations for Subchapter M, and the course will immediately be given to states for their use. OSM will also train state personnel in use of these materials. If a state anticipates that a year will be needed to train, test, or retest blasters, the state can use OSM's course or one of its own to begin to train blasters even before OSM has complete and final regulations for Subchapter M. By beginning training at that point, the State could have well over a year to train potential blasters-in-charge before certification must occur.

As for testing, the OSM certification test will also be available months before OSM can promulgate complete and final regulations for Subchapter M. The Office will train State personnel in use of the test, and a state which wants to begin testing can do so before submission or approval of its program, providing the state can ensure test security. Although the State could not issue certificates before its certification program is approved by OSM, the State could record test scores for use at a later date. Thus, any state can now begin its training and/or testing efforts well in advance (12 months or more) of actual certification deadlines, and the commenter's suggestion that 12 months or more be allowed to train, test, and retest *after* approval of a state program has not been accepted.

One commenter objected to § 850.12(b)(2) which holds the blaster-in-charge responsible to ensure that blast design and execution meet the blasting performance standards. The commenter asserted that OSM is assuming a division of duties that does not exist in all operations. For example, in some mines the blast design is prepared by an engineer, then provided to the blasting foreman to implement. Further, the commenter believed the regulations imply a legal liability to the blaster-in-charge which, in fact, accrues to the permittee. He commented that the blaster-in-charge cannot be held legally responsible for satisfying OSM blasting criteria, and enforcement should not be directed toward the blaster-in-charge.

The rules, as reproposed, were not based on any fixed divisions of labor between the blaster-in-charge and other employees who might perform various tasks in preparation of a blast. A blasting engineer could design the blast, but the blaster-in-charge would still be responsible for checking the design to ensure the resulting blast would not violate OSM blasting standards. As examples, the blaster-in-charge would check the pounds per delay, the amount of stemming, etc., to ensure that resulting peak particle velocity, airblast, and flyrock would not exceed OSM standards.

As explained in the discussion of § 850.12(a)(3), (4) and (5) above, the permittee is legally responsible for ensuring that all performance standards are met during surface mining and reclamation operations. For example, if there is a violation of OSM blasting standards, the permittee may be fined. The blaster-in-charge is also responsible, however, to ensure blasting in accordance with the standards; and a very serious violation of those standards by the blaster-in-charge could result in a penalty of suspension or revocation of certification. The permittee is liable in terms of fines, suspension of operations, or cessation of operations; a blaster-in-charge is liable only to the extent of losing certification. If the blaster-in-charge is not held responsible to blast competently, incompetent or careless blasters-in-charge would remain certified, and certification would lose its meaning. The Office has therefore declined to adopt this comment.

Three commenters requested that OSM specify in § 850.12(b)(5) minimal training requirements for crew members. Additionally, one commenter suggested that OSM require the operator to post the names of all crew members, along with completed training for each member. These commenters felt that crew members might not get all the training needed to comply with OSM regulations through MSHA's required training, and posting names and training would assure some control over training of crews.

OSM has not left training of crew members entirely to MSHA. In the previous preamble, the Office pointed out that MSHA is responsible to provide training which teaches the health and safety aspects of the blasting environment (44 FR 38320–21, June 29, 1979). Because crew members make none of the decisions that affect OSM blasting standards, the Office believes that the overall requirements of Part 850 are sufficient to ensure that crew members can and will perform assigned tasks without resulting violations of OSM blasting standards. Because OSM does not consider the requirement that all crew members have a specific training course necessary for implementing blasting performance standards, such a requirement has not been added to the final rules.

One commenter contended that OSM exceeded its authority in § 850.12(c) by proposing to regulate the way the shot is handled at the blast site. According to this commenter, OSM's only concern should be the environmental effects of the shot, only MSHA has the authority to regulate preparation and execution of the blast, and OSM cannot specify the duties of the blaster-in-charge without encroaching on that authority.

This comment ignores the requirements of Sections 515(b)(15) and 719 concerning the Secretary's responsibility to regulate the use of explosives and certify persons who carry out blasting. The essence of § 850.12(c) is to make the blaster-in-charge responsible for meeting OSM blasting standards, regardless of the fact that the blaster-in-charge may have crew members who perform part or all of the physical work on the blast. This Section helps to clarify the Office's identification of the blaster-in-charge as the person who needs to be trained and certified to conduct or be directly responsible for blasting in accordance with Sections 515(b)(15) and 719 of the Act. Unless the responsibilities of the blaster-in-charge are clearly defined, as in § 850.12(c), a regulatory authority cannot certify persons as competent to carry out such responsibilities in blasting or use of explosives for the purpose of preventing adverse effects on public safety and the environment. Nor could the RA suspend or revoke certificates for failure to meet those responsibilities in averting harm to the environment and public health and safety.

Additionally, Section 515(b)(15) of the Act states, as a general performance standard applicable to all surface coal mining and reclamation operations, that the operation shall be required to "insure that explosives are used only in accordance with existing State and Federal law." Federal law would include MSHA regulations. To require that the blaster-in-charge be responsible for specific duties which will ensure compliance with MSHA regulations at the blast site is not inconsistent with, nor duplicative of, MSHA's authority to regulate the health and safety aspects of blasting.

Third, handling or preparation and execution can also affect the environmental effects of the shot. For example, OSM could certify a blaster-in-charge to be responsible for peak particle velocity limits, but the regulations could fail to specify that the blaster-in-charge must supervise or instruct the crew. If a crew member then

overloaded a blast hole and violated the peak particle velocity limit, the blaster-in-charge could not be held responsible. In such a hypothetical situation, no one would be responsible except the permittee. If OSM did not regulate the handling of the shot, it would not fulfill Congress' intent that a certified person be directly responsible for blasting to ensure proper control of blasting in the surface operations of coal mines.

For these reasons, the Office chose not to accept this commenter's suggestion to delete the specific responsibilities of the blaster-in-charge contained in § 850.12(c), and that section becomes a final rule without change.

Section 850.13—Required elements of training programs.

This Section lists minimal requirements that State and Federal regulatory authorities must meet in providing training for potential certified blasters. Other comments concerning this section also related to § 850.4 (b) and (c) and are discussed above in that portion of the preamble.

One commenter proposed that the subject of potential structural damage due to blasting should be included in the blaster training course being developed by OSM under § 850.13(b).

Content of the OSM-developed training course will be based on the results of the ongoing job analysis (validation study). Content cannot be justified on the basis of individual opinions. Through the job analysis, all skills, knowledges, and abilities necessary to perform as a blaster-in-charge will be identified. If knowledge of structural damage is necessary for such performance, as demonstrated through the job analysis, it will be included in the course, as well as the test. OSM cannot yet identify this subject area as a part of the training course, because the job analysis is not yet complete, and an accurate, complete listing of subjects for training is not yet available.

Section 850.14—Required elements of certification programs.

This Section sets forth minimal requirements of State and Federal programs in examining, certifying, and recertifying applicants. The Section also encompasses rules about penalties, hearings, and appeals. Some comments discussed the nationwide test in the context of sections other than § 850.14. Since such comments concerning the substance of the testing requirements relate to § 850.14, they have been grouped and answered under this Section, regardless of the specific section to which the commenter referred.

Several commenters expressed concern about the content and methodology of the nationwide test in § 850.14(a). One commenter expressed the opinion that demonstrated competence through a practical examination would be a more dependable measure of competence than a written test, since many blasters have limited formal education and may not do well on written tests, although they are very competent in their work. This commenter reqested that "trained and competent" persons be changed to "persons who demonstrate competence."

As stated in the preamble to the reproposed rules, a valid test would not use content or methodology that tests skills such as reading and writing that are irrelevant to blasting competence. The test cannot be totally nonwritten since, among other things, a blaster-in-charge must be responsible for blasting records. However, the test will be designed and administered so as to test verbal skills only to the extent that such skills are necessary to perform as a blaster-in-charge. "Trained and competent" in § 850.2 is used to describe certified persons. If people can pass the test and meet the experience requirements, both of which measure competence, the Office assumes they have been trained. In other words, they have learned, either through formal training, on-the-job training, or experience, the combination of skills and knowledges necessary to perform the duties of a blaster-in-charge. Thus, the Office declined to accept the suggestion to change the wording "trained and competent" in § 850.2.

Commenters also objected to nationwide certification requirements in § 850.14(a), especially an examination to measure competence to be developed by OSM and used by all regulatory authorities. These comments prompted the consideration of three alternatives:

1. Delete the requirement that all applicants for blaster certification be required to pass a national qualifying examination established by the Office. Leave all certification requirements to the States; OSM to review and approve such proposed requirements in State programs as to adequacy;

2. Exempt those States which have existing testing programs from required use of the national examination;

3. Retain the requirement, as written in the reproposed rules, that all applicants for blaster certification must pass a national qualifying examination.

Alternative No. 3 was adopted for the reasons indicated in the following discussion of comments.

Some commenters asserted that imposition of nationwide certification requirements exceeds the Secretary's authority granted under SMCRA and suggested Subchapter M be deleted in its entirety. Some commenters contended that a national certification program goes beyond what Congress intended in Section 719 and violates unspecified states' rights. One commenter supported this argument with the contention that provision for a national examination contradicts the intent of Section 503 of the Act and asserted that the national examination represents a degree of exclusive jurisdiction which is being withheld from the States.

To quote from Section 719: "In accordance with this Act, the Secretary of the Interior (or the approved State regulatory authority as provided for in Section 503 of this Act) shall promulgate regulations requiring the training, examination, and certification * * *" If the commenter is referring to the parenthetical in Section 719, the Office interprets the word "or" to indicate the Secretary must promulgate rules to implement this Section in States that do not seek or achieve primacy, and States that do achieve primacy must promulgate rules in accordance with Section 503 of SMCRA. However, the Office does not believe the parenthetical precludes the Secretary's choice to establish a nationwide training and certification program.

The Secretary's promulgation of regulations in this area is consistent with Sections 102(a) and 503 of the Act. Section 102(a) states the first purpose of the Act to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Under Section 201(c)(2), the Secretary is authorized to issue regulations necessary to carry out the purpose and provisions of the Act. Section 503(a)(7) specifically requires, as a criterion of State programs, that they meet the purposes of the Act through "rules and regulations consistent with regulations issued by the Secretary pursuant to the Act."

The Secretary's broad power to issue regulations pursuant to the Act was recently upheld in the U.S. District Court. *In Re Permanent Surface Mining Litigation*, Civil No. 79-1144, February 20, 1980; reversed, *In Re Permanent Surface Mining Regulation Litigation*, U.S. Court of Appeals, No. 80-1308, July 10, 1980; *vacated, In Re Permanent Surface Mining Regulation Litigation,*

U.S. Court of Appeals (en banc), August 25, 1980. In answer to the argument that the Secretary lacks a statutory basis to require state program consistency with permanent regulations, the Court found the Act to contain "several unequivocal grants of rulemaking authority vested in the Secretary * * *" The Court interpreted Sections 701(25), 503(a)(7), and 201(c)(2) of SMCRA as granting such authority.

Additionally, these regulations are necessary to implement Congress' intent in enacting Section 719. As explained above, the legislative history of that section demonstrates Congress' desire for a national blaster certification program because the surface mining industry engages in "the most extensive use of explosives nationally," yet "very few states require the licensing" of blasters. 123 Congressional Record 3830–3831 (April 29, 1977). As a solution to "controlling blasting problems," Congress adopted Section 719's requirements for "comprehensive training for those responsible for the use of explosives and blasting." *Ibid.*

To summarize, the Office is of the opinion that the legislative history indicates Congress' intent for a national program to implement Section 719, and the Act provides statutory authority to the Secretary to promulgate such a program. Thus, the nationwide requirements remain in the final rules for Subchapter M.

Other commenters declared that the nationwide certification requirements duplicate State certification programs and suggested that OSM should exempt existing State programs from such requirements.

The Office did not find an existing test used by any State or by the Mine Health and Safety Administration which measures blasting competence and which has been validated in accordance with acceptable standards and constructed through accepted psychometric techniques. OSM could not, therefore, accept existing tests as instruments that could predictably measure the competence necessary for certification as required under SMCRA. Unless a test is constructed and used in accordance with acceptable standards of the psychological profession, it cannot be regarded as a measuring instrument. It may measure something, but no one can prove what it measures or how well it measures. The intent of the Act in Sections 515(b)(15)(D) and 719 is to ensure that only competent persons are allowed to blast in surface mines. Thus, the Office cannot use or approve use of unvalidated tests for blaster certification because such tests may not actually measure the competence necessary to blast in accordance with OSM standards.

Under these circumstances, the Office could not leave the responsibility for development of valid certification tests to individual States. Validation studies necessary to develop valid test instruments are time-consuming and costly. All affected States would have been required to perform essentially the same study, involving years of duplicative effort and expenditures of millions of dollars and delaying implementation of a certification program as required by the Act.

One commenter expressed concern that content of a nationwide test would not be applicable in all states, since blasting techniques and practices will vary widely among locations. To ensure the national test is valid for use in all States, OSM's validation study will include data collected from a representative sample of blasters; a panel of blasting experts and supervisors, representative of industry, government and academia; and representatives from each affected State. Each affected State has been asked to review test content to ensure that State differences are reflected. If significant differences exist, the test will be constructed in modular form and applicants will be required to complete only those modules which are relevant to blasting in their particular state.

One commenter asserted that the *Guidelines on Employee Selection Procedures* (43 FR 38289–38309, August 25, 1978) are not applicable to blaster certification requirements and could not be used as a rationale for requiring validation of certification requirements or for imposing a valid national examination on the basis that no other valid instrument exists. As explained above, OSM believes that it is required to follow the *Guidelines* and develop a job-related test because of the Office's potential liability under (1) Title VII of the Civil Rights Act, (2) the Fifth and Fourteenth Amendments to the Constitution, and (3) Executive Orders requiring equal employment opportunity.

One commenter pointed out that the *Guidelines on Employee Selection Procedures* recognize the fact that many combinations of questions (tests) and/or experience can qualify as valid—that is, there is not just one valid examination. A national examination, said this commenter, deprives the States of the opportunity to vary testing of basic knowledge, even though all such variations could be valid under the *Guidelines*.

The Office agrees with the commenter in that certification tests other than the national test could be valid. If a State submits, as a part of a proposed State program, a test accompanied by supporting data to show the same degree of validity and reliability for its specific population as that demonstrated for the national test, such a State test could be approved by OSM for use in that State under the state window regulations of § 731.13. Proof of equivalent degrees of validity and reliability and proof that use of the proposed alternate test is necessary because of local requirements would meet the standards of this regulation. "No less stringent" in this situation does not mean a tougher test; rather, it means an instrument which measures competence to blast in accordance with OSM blasting standards just as comprehensively, just as accurately, and just as reliably as the OSM-developed test.

One commenter requested OSM reinsert in § 850.14(a) the 2-year experience requirement for certification, since use of the phrase "types and length of experience required by the Office" does not set forth a uniform minimal requirement. Additionally, the commenter suggested OSM specify that comparable blasting experience in other industries would be credited toward the required 2 years.

In the preamble to the reproposed rules, the Office explained that the types and length of experience required for certification would be determined through validity studies, since individual opinions do not establish sufficient job-relatedness of such a requirement (44 FR 38322, June 29, 1979). The studies will also determine whether experience in jobs other than blasting in surface mines can be considered as qualifying experience. As soon as the studies are complete, the Office will propose specific experience requirements in revisions to §§ 850.14(a), (e)(1), (2) and (3). After public comment on these new proposals, final rules on this subject will be promulgated. OSM must await results of the validity studies before determining what length and types of experience indicate competence; therefore this commenter's suggestions cannot be adopted at this time.

Two commenters wanted the Office to add a grandfather clause to this Section, exempting blasters already certified by States. Commenters felt that such an exemption would prevent an unmanageable onslaught of applicants to State agencies during the initial stages of implementation. Additionally, these commenters are concerned that many competent blasters excel in their work, but cannot pass a test. If these blasters are not exempted from the test,

commenters believe they will be unnecessarily deprived of the opportunity to work as a blaster-in-charge.

As explained in the preamble to the reproposed rules, the test under development by OSM will not test irrelevant job skills (44 FR 38322, June 29, 1979). For example, reading and writing, except as those skills are required in performance as a blaster-in-charge, will not be tested. Thus, if a blaster is competent in necessary job skills, he or she should be able to pass the test, regardless of educational background. With the new time limits allowed States under §850.11 in the final rules, the onslaught anticipated by these commenters can be averted.

Also, OSM will be studying equivalent content validity between existing State tests and the OSM-developed test. If sufficient equivalent validity exists, OSM will propose that test scores or partial scores on State tests be accepted in lieu of retesting. The Office cannot predict at this time any such equivalence, but will be specific about which State scores, if any, are acceptable, when each State's blaster certification program is reviewed and public comment is requested. Based on the above rationales, the Office did not accede to the request to add a grandfather clause to this Section.

One commenter maintained the Office should dictate reciprocity among all regulatory authorities in recognizing successful completion of the examination. Certified blasters should not have to retake the same examination simply because they want to work in more than one state.

The Office agrees with the rationale that certified blasters should not be required to retake the same examination solely for the purpose of working in a mine under the jurisdiction of a regulatory authority other than the issuing RA. However, OSM cannot specify required reciprocity until validity studies are complete, since the studies may find regional or State differences which must be reflected in test content. To the extent that studies dictate uniform content, the Office will accept this comment and, on completion of the studies, will propose such reciprocity as the studies justify.

Several commenters wanted to add to § 850.14(a), (b) and (h) the requirement that specific test and experience requirements for certification, as well as specific penalties for specific violations, will be subject to notice and public hearing requirements before becoming a part of the final rules.

As previously explained, the Office intends to provide notice and opportunity for public hearing during the rulemaking on the nationwide testing, experience, recertification, and retesting provisions which will be proposed once the validity studies are complete. At that time, the public will have an opportunity to comment on both blaster testing and experience requirements, as well as penalties. Section 850.11 has also been added to specify that a public hearing will be held on each State blaster certification program so that the public can comment while those programs are being reviewed by OSM.

One commenter objected to the mandatory 30-day wait in § 850.14(d) for applicants to retake the examination after notification of failure. Section 850.14(c) allows 30 days after the applicant has been tested for notification of success or failure. The commenter pointed out that these combined time limits could result in a person's being unable to work for three months.

The Office does not feel that these limits are unduly harsh. The 30-day period for notification of failure in § 850.14(c) is the maximum time allowed for the regulatory authority (RA) to notify applicants. Notification could take place before the 30 days have elapsed, depending on administrative workload of the RA at any given time. Also, a State/RA can provide for a shorter time limit under a State program.

The 30-day limit in § 850.14(d) means that an unsuccessful applicant must wait 30 days to apply for reexamination. This provision has two advantages: 1. Any successful applicant will be notified as to which sections of the test were failed. Thirty days from that time will allow for adequate preparation, so that a second failure will be less likely; 2. The 30-day wait will prevent applicants' attempts to beat the test simply by retaking the examination instead of trying to correct deficiencies in knowledge or skills.

Moreover, the temporarily unsuccessful applicant for certification is not prevented, under Part 850, from doing any work; the person is only precluded from working as a blaster-in-charge. It is doubtful that any person need wait idly for the next testing opportunity. For example, any aspirant who meets the experience requirements to be certified as a blaster-in-charge (and who needs only to pass the test to be certified) could certainly perform as a blasting crew member during the period between testing opportunities. For these reasons, OSM did not alter the time limit in § 850.14(d) for retesting.

One commenter objected to the requirement in § 850.14(e) that a blaster's certificate include a photograph of the person certified for the following reasons: 1. Coalfields are spread out geographically in some states and it will be very expensive both to set up a number of offices accessible to blasters so that photographs can be made and for blasters to travel long distances to a central place to be photographed; 2. This requirement makes it impossible for a blaster to renew a certificate by mail and time off work to renew certificates will be expensive to the blaster and/or operator; and 3. The photograph is not needed because one State has been licensing blasters for seven years, has never required a photo and has had no problem with persons attempting to switch or change their licenses.

In answer to this commenter, the Office offers the following rationales for retaining the requirement for a photograph: 1. Many states already require a photograph for blaster's certificates, and representatives from only one State have complained of the cost; 2. The picture need not be retaken every year and the State can require an initial photo, not to be retaken for 3, 5, or even 10 years; 3. The State can set up temporary facilities for applying, testing, and photographing during the initial stages of program implementation if applicants are dispersed over large geographical areas; and 4. Because the blaster-in-charge bears considerable responsibility for protecting the public safety and minimizing adverse environmental effects, obtaining false certification must be discouraged as much as possible; and photographs are a proven and effective deterrent to impersonation, particularly on a minesite where one could not expect or demand that blasters would always carry corroborating documents which contain a photograph. For these reasons, the Office has retained in the final rules the requirement for a photograph on the blaster's certificate.

Several commenters objected to the recertification requirements reproposed in § 850.14(e)(1), (2) and (3). Analysis of these comments led to consideration of three alternatives: 1. Delete all requirements for recertification; 2. Require only those who do not work as blasters (during the 3-year period) be recertified; and 3. Leave these sections as reproposed—require recertification every 3 years based on experience and every 6 years based on reexamination and experience, as determined by validity studies. If validity studies indicate different requirements are more valid, propose the recertification requirements so indicated.

Commenters gave the following reasons for deleting all requirements for recertification: 1. Retesting is not required of other professions such as doctors and lawyers; 2. OSM can use notices of violation (NOV's) and cessation orders (CO's) to weed out incompetent blasters; 3. OSM can use suspensions and revocations to weed out incompetent blasters; 4. Changes in state-of-the-art happen only once in twenty years; even then, such changes are thoroughly introduced by suppliers before blasters use anything new; 5. The 3-year recertification requirement has no data to support it; and 6. Changes in regulations are published and hearings are held so that blasters would be informed of any changes in regulations and do not need retesting to keep abreast of changes. Additionally, those commenters who would exempt working blasters from recertification argue that the certified blaster who continually works in blasting does not need to be-recertified because he or she will not forget knowledges or lose skills needed to blast competently.

In answer to these comments, OSM has provided for the need for recertification every 3 years to be determined by validity studies now underway. If the studies show that no experience is needed to retain competence, this rule will be reproposed, based on findings of the study. If the study shows no need for at least a minimal reexamination every 6 years to retain competence, that rule will be reproposed, based on findings of the study. These studies will be completed and any necessary changes made before Subchapter M is used as a basis for any State or Federal programs.

The requirement for recertification every three years, based on experience, and a reexamination plus experience every 6 years, does not mean that blasters must repeat the entire initial process of certification. Certificates can, for instance, be renewed by mail at the end of three years if the only requirement for renewal is proof of minimal experience during those three years. The reexamination at the end of six years (if any reexamination is proved necessary as a result of the validity study) should include only those relevant changes that have occurred since initial examination. The study may well conclude that no reexamination is necessary—for example, it could determine that the distribution of a small pamphlet containing information about such changes may be all that is needed, in addition to the experience required during 3-year intervals.

Commenters suggested that experienced blasters need not be recertified at the end of three years. However, unless all blasters apply for recertification at the end of 3 years, the regulatory authority has no way of knowing which certified blasters have had minimal experience during the 3-year period. Unless there is a check on experience at the end of three years, those who have not had the required experience could also retain the certificate of competence and continue to blast.

Commenters suggested notices of violations (NOV's) and cessation orders (CO's) could be used to weed out incompetent blasters. However, NOV's and CO's are not written to blasters-in-charge—they are written to permittees. It is true that the certificate of the blaster-in-charge could be suspended or revoked due to blasting violations which are also written up on NOV's and CO's. It is also true that some incompetent blasters may be "weeded out" by this process. The suspension/revocation system, however, serves merely as a spot check on competence, i.e., one cannot assume or certify initial or continuing competence on the sole basis of lack of violation/suspension/revocations.

For these reasons, the Office has decided to retain § 850.14(e)(1)(2) and (3) as reproposed, and no change has been made at the present time.

However, if these requirements for recertification are not supported by the ongoing study, new revised rules in accordance with the findings of the study will be proposed for Subchapter M.

One commenter objected to the requirement of § 850.14(e)(4) that blasters-in-charge carry their certificates while on duty. The reproposed rule for this section stated that blasters-in-charge must, upon request, show the certificate to any authorized representative of the RA or the Office. This commenter requested the rules be changed to require only that the blaster-in-charge provide evidence of identification within a "reasonable period of time." The commenter felt that it was unfair for the operator to be penalized if the blaster-in-charge is cited in case of a lost certificate. The commenter believes that the RA's records of certification should be the only evidence required for valid certification.

The Office is of the opinion that the rule, as written, is necessary to facilitate inspections and assure inspectors that the person actually serving as blaster-in-charge is the same person who has been certified. Holding the blaster-in-charge accountable for displaying the certificate while on duty is no more than is asked of automobile drivers, chauffers, FBI agents, police officers, inspectors, or any number of other groups licensed for particular duties that involve questions of responsibility or safety. The operator's liability in this instance is no different than in situations where employees do not wear the required safety apparel such as goggles, hardhat, or steel-toed shoes.

It is true that certificates may be lost and violations thus incurred. However it is unreasonable to expect that inspectors should have to check with the RA every time they want to determine whether a certified blaster-in-charge is actually present. Moreover, where one State gives reciprocity to another State's certification, inspectors would not have access to certification records and could not verify identity unless the blaster-in-charge carries his certificate.

In cases of lost certificates where no other blasting violations have occurred and a certified blaster-in-charge is in the process of replacing a lost certificate, the notices of violation might not carry an assessment unless the "lost certificate" was habitual for the blaster in question.

This comment was not accepted for the reasons cited above, and the requirement that certificates be exhibited to representatives of the RA or Office, upon request, has been made a part of the final rules

One commenter requested that the provision of § 850.14(f)(1)(i) on "noncompliance with any blasting-related order" be changed to "noncompliance with any blasting plan approved by the regulatory authority" as a reason for possible suspension or revocation. This commenter believed that the language, as reproposed, is too broad, because the orders of some inspectors could be erroneous or even dangerous, since inspectors are not qualified blasters. Failure to comply with faulty orders should not subject a blaster to suspension or revocation of his/her certificate.

The Office believes that the blaster is protected from unwarranted suspension or revocation through the provisions of § 850.14(f)(1) and (2) for a hearing to take place before revocation or suspension can occur (except for temporary suspension where there is a finding of threat to public safety or the environment). If an inspector has given a faulty order, that determination would be made at the hearing before a certificate has been suspended. Revocation cannot take place, under the rules, before a hearing is granted. Suspension can precede the hearing

only in cases where the RA is of the opinion that continued work by the blaster in question represents a threat of danger to the public or the environment. Situations where these circumstances converge—faulty orders, a judgment of threat, and immediate suspension before a hearing—are bound to be exceedingly rare. Under § 850.14(f)(3), the blaster would be entitled to a hearing within 5 days of request for relief, at which time the certificate could be restored, and under § 850.14(f)(2), the regulatory authority must hold a hearing within 20 days of a notice of suspension.

Blasting-related orders will refer to specific local circumstances and more specific aspects of blasting than those contained in the blasting plan. For example, the blasting plan does not address rules of Part 850, such as size of crew, continous ready accessibility of the blaster-in-charge to the crew, etc. However, inspectors are directed to see that all such aspects of blasting regulations are obeyed, and all these rules directly or indirectly affect the impacts of blasting on public safety and/or the environment. If an inspector's order is dangerous or erroneous, as discussed above, the blaster has an opportunity to make that point at a hearing, preventing suspension or revocation.

In summary, the Office has not accepted this commenter's suggestion because refusal to obey a blasting-related order represents legitimate grounds for possible suspension or revocation, and because the blaster-in-charge is adequately protected from unwarranted penalties through the provision for a hearing to precede actual penalty.

One commenter objected to § 850.14(f)(i) and (ii) because in the commenter's opinion, one small violation could result in revocation without the right to a hearing before revocation takes place. The commenter suggested an addition to this section to provide that suspension or revocation could not be effective until a hearing had been held and proof of violation provided by the regulatory authority (RA).

This commenter has misread or misinterpreted the rules as reproposed. The wording of reproposed § 850.14 (f) and (h) provide for the same protections sought by the commenter. Section 850.14(f)(1) provides opportunity for a hearing from the RA before suspension or revocation can take place, except for "threat to public safety or the environment" under § 850.14(f)(2).

Under the reproposed rules, revocation cannot take place without prior opportunity for a hearing. In cases where suspension takes place for reasons of threat to public safety and before a hearing, the blaster-in-charge must have a hearing within 20 days from the date the penalty is imposed and is entitled to a hearing within 5 days if requested. The words "may * * * revoke" under § 850.14(f)(1) mean that (1) adequate proof of guilt must be presented and extenuating circumstances must be considered, and (2) the violation must be serious enough. Under § 850.14(h), the RA determines the "length of suspension or revocation and the severity of any other penalties for offenses which provoke such actions." Once the complete and final rules for this part are published, all RA's will have to promulgate a table of possible penalties for anticipated possible violations as a part of their programs before those programs are implemented. When a State blaster program is submitted for approval by the Office, such a table must provide for equitable penalties, based on the comparative seriousness of specific single violations or recidivism, and must provide due process by informing the blaster-in-charge of potential penalties before any violations have occurred for which those penalties could be imposed.

To answer the commenter's suggestion that no suspension be allowed without a prior hearing, the Office is of the opinion that provision must be made for immediate suspension in situations where it is obvious that the blaster-in-charge cannot or will not control blasting. The Office considers blasting not controlled to the limits specified in 30 CFR 816.61–68 or 817.61–68 to be a potential threat to public safety, the environment, or property outside the permit area. Situations where these limits will very likely be continually or severely violated if a particular blaster-in-charge continues work are situations of threat. For example, a violation of § 850.14(f)(1)(iii) where certification was obtained under false pretenses may constitute an immediate threat where an unqualified person would be performing as a blaster-in-charge. A second example of threat would be a violation under § 850.14(f)(1)(iv) where a blaster-in-charge was obviously under the influence of alcohol while working. A third example would be a violation under § 850.14(f)(1)(ii) for repeated violations, obviously demonstrating lack of ability or lack of conscientiousness by the blaster-in-charge in controlling blasting within the specified limits.

To summarize, the rules, as reproposed, provide for exactly the safeguards which the commenter wants to ensure with the exception of cases that involve immediate threat. For the reasons outlined in the preceding paragraphs, the Office believes that immediate suspension is necessary in situations where threat is imminent. Additionally, the Office has now added § 850.14(f)(3) to the rules which provides for a hearing within 5 days, if requested by the suspended blaster-in-charge. Thus, §§ 850.14(f)(1) (i) and (ii) remain unchanged in the final rules.

One commenter wanted the word "current" inserted before "addiction" in § 850.14(f)(1)(iv) as a reason for suspension or revocation. The commenter pointed out that this rule, as reproposed, could be interpreted to preclude rehabilitated addicts from certification.

The Office agrees that proof of past addiction may not be job-related and is not justification for denying certification. Thus, the rule has been changed to read "proof of current addiction."

Two commenters objected to the 20-day time limit of § 850.14(f)(2) within which a blaster must have opportunity for a hearing in the event a certificate is suspended for reasons of threat to public safety or the environment.

One commenter suggested that the limit be shortened to days because the 20-day period imposes a penalty prior to trial which is unusually harsh, based solely on the judgment of someone who may or may not have any practical experience in the use of explosives.

A second commenter contended that a threat to public safety or the environment will many times be a judgment call by the inspector. The blaster should, therefore, be given an immediate hearing. Otherwise, he or she will be out of work for 3 weeks after receiving notice of suspension.

As this rule was reproposed, the 20-day provision is a maximum limit, not a set time for a blaster to wait for a hearing following immediate suspension because of imminent threat. However, a 3-day or 24-hour maximum limit is not administratively feasible. The nature of the violation could require some preparation for the hearing—such as compilation and analysis of blasting records—for both the blaster and RA. In other cases, an administrative law judge or hearing officer must be scheduled to hear the case. In some cases, the blaster might have to travel overnight to attend the hearing. Any of these or other factors could preclude the 3-day or 24-hour limit. However, the commenters do make a point in that a 20-day wait could conceivably impose undue hardship in some cases of immediate suspension. The Office has therefore inserted § 850.14(f)(3) into the rules, which

provides that, at the request of the suspended blaster-in-charge, the Regulatory Authority must hold a hearing and issue a decision within 5 days of receipt of such a request. This "5-day rule" parallels the relief offered operators in the event of cessation orders under Section 525 of the Act; and although this rule will be difficult to administer, it will not be impossible as would a 24-hour or 3-day limit.

One commenter contended that OSM should add to § 850.14 a provision that a blaster-in-charge be reimbursed for lost wages in the event a certificate is revoked but later reinstated after a hearing or an appeal. Since loss to the blaster-in-charge under such circumstances is the result of the RA's mistake, this commenter felt it only fair that the RA should have to make up for any lost wages.

The Office has declined to make this addition to the final rules. Revocation cannot take place before a hearing, and suspension also requires a prior hearing, except in cases where continued work by the blaster-in-charge is found to be a threat to public safety or the environment. The requirement for a hearing prior to all suspensions except emergencies should prevent inspectors' mistakes from wrongfully depriving blasters of wages. Additionally, the Office has added § 850.14(f)(3) in the final rules which provides for a hearing and decision within 5 days at the request of the suspended blaster-in-charge. In any event there is legal recourse through the courts. These are the same checks and balances provided under any regulatory program and should result in due process for blasters-in-charge who are cited for violations.

Regulation Drafters

This portion of OSM's permanent regulatory program has been drafted by Jean A. McIntyre. Assistant Director David R. Maneval has been responsible for supervision of its preparation and content.

Dated: December 5, 1980.

Joan Davenport,

Assistant Secretary.

1. Title 30 CFR is amended to add Subchapter M consisting of Part 850 as follows:

SUBCHAPTER M—TRAINING PROGRAMS FOR BLASTERS AND MEMBERS OF BLASTING CREWS, AND CERTIFICATION PROGRAMS FOR BLASTERS

PART 850—PROGRAMS

Sec.
850.1 Scope.
850.2 Objective.
850.4 Responsibilities.
850.5 Definitions.
850.11 Applicability.
850.12 General program requirements.
850.13 Required elements for training programs.
850.14 Required elements for certification programs.

Authority: Secs., 102, 201, 501(b), 503, 504, 515, 516, 523, 701, and 719 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 471, 472, 486, 490, 495, 496, 497, 516, 517, 518, and 526 (30 U.S.C. 1202, 1211, 1251(b), 1253, 1254, 1265, 1266, 1273, 1291, and 1309).

§ 850.1 Scope.

This part establishes program requirements for—

(a) The training of persons to engage in and conduct blasting or to use explosives in surface coal mining and reclamation operations;

(b) The examination and certification of persons engaging in and directly responsible for blasting or the use of explosives in surface coal mining and reclamation operations; and

(c) Conditions and restrictions for permittees' use of certified blasters and blasting crews in surface coal mining and reclamation operations.

§ 850.2 Objective.

The objective of this part is to establish training and certification programs which ensure that all blasts in surface coal mining and reclamation operations are designed, prepared, executed, and supervised by trained and competent persons who meet the requirements of these regulations as they relate to blasting in surface coal mining and reclamation operations.

§ 850.4 Responsibilities.

(a) The Director of the Office is responsible for—

(1) Establishing technically valid national examinations for blaster certification and recertification which cover all skills, knowledge, and abilities necessary to meet the requirements of §§ 816.61-68. 817.61-68, and this Part 850 regarding blasting and the use of explosives in surface coal mining and reclamation operations. The Director also establishes requirements governing the administration and security of those examinations;

(2) Establishing valid national experience requirements for blaster certification and recertification;

(3) Developing training course materials which cover all skills, knowledge, and abilities to meet the requirements of §§ 780.13, 816.61-68, 817.61-68 and this Part 850; making such materials available upon request; and updating such materials as Federal regulations change and as significant developments in the state-of-the-art occur; and

(4) Approving or disapproving State program amendments to implement this part.

(b) Each Regional Director of the Office is responsible for—

(1) Reviewing State programs for blaster training, examination, certification, revocation, suspension, and appeals;

(2) Examining, certifying, and recertifying applicants, and revoking or suspending blaster certification in a State where a Federal program has been implemented and performing those functions for blasters who work on Federal lands, in States where no State-Federal cooperative agreement is in effect;

(3) Monitoring approved State blaster training, examination, certification, revocation, suspension, and appeals programs to ensure compliance with the requirements of this part;

(4) Collecting any data required by the Director regarding blaster training, examination, certification, revocation, suspension, and appeals programs conducted in support of the Act;

(5) Providing Office-developed training course materials, upon request;

(6) Assisting permittees by providing instructor training for potential instructors and, when resources permit, conducting blaster training courses in a State where a Federal program has been implemented or where no State-Federal cooperative agreement is in effect;

(7) Ensuring that any person who performs as blaster-in-charge in surface coal mining and reclamation operations in a State where a Federal program has been implemented or where no State-Federal cooperative agreement is in effect is properly certified.

(c) Each State is responsible for—

(1) Preparing and submitting to the Regional Director, under 30 CFR Parts 731 and 732, a State program for examining, certifying, revoking and suspending certification, appealing revocation or suspension; and promoting and providing training which meets the requirements of this part;

(2) Requiring that any person who performs as blaster-in-charge in surface coal mining and reclamation operations in the State be certified in accordance with an approved State blaster program;

(3) Administering the State certification program for blasters as approved by the Secretary;

(4) Developing training course materials which cover any additional State-imposed requirements for blaster certification;

(5) Providing, upon request, training course materials whose mastery ensures

a blaster's ability to comply with the requirements of applicable State and Federal laws;

(6) Assisting permittees by conducting instructor training for potential instructors of blasting courses and, where resources permit, conducting blaster training courses; and

(7) Collecting, maintaining, and providing the Office with data on training, test results, and other information the Office may require with respect to a State program.

§ 850.5 Definitions.

As used in this part—

(a) *Blaster* means a person who is certified to prepare, execute, and supervise blasts at the blast site in surface coal mining and reclamation operations.

(b) *Blaster-in-charge* means a properly certified person designated by the responsible management official of the permittee to be responsible for ensuring that blasting operations at the blast site are conducted in compliance with the blasting standards set forth in these regulations.

(c) *Blasting crew* means 12 or fewer persons engaged in preparation for and execution of a blast under the direct supervision of a blaster-in-charge.

§ 850.11 Applicability.

The requirements of this part apply to, and must be implemented by, the regulatory authority for all State, Federal and Federal lands programs. Each State regulatory authority must submit to the Secretary a blaster training and certification program within six months after this complete Part has been finally promulgated. A public hearing will be held on all State programs submitted to the Secretary to implement this part.

§ 850.12 General program requirements.

(a) The permittee shall—

(1) Designate a blaster-in-charge for each blast to be detonated in surface coal mining and reclamation operations;

(2) Ensure that the designated blaster-in-charge is properly certified in accordance with the time requirements established in 30 CFR 850.11.

(3) Ensure that all employees who perform blasting tasks under the supervision of a blaster-in-charge have adequate training in compliance with the standards of these regulations and any additional applicable State regulations;

(4) Limit the size of a blasting crew to 12 or fewer persons, supervised by a properly certified blaster-in-charge who is continuously readily accessible to crew members in preparing and executing a blast. The regulatory authority may, in individual cases, approve a larger blasting crew, due to unusual circumstances or mining methods. Permission to use a larger blasting crew may be granted by the regulatory authority only if the permittee ensures that the blaster-in-charge can provide adequate direct supervision to crew members and remain in control of blast design, preparation, and execution so that blasting complies with Office and applicable State regulations; and

(5) Ensure that a blaster-in-charge supervises no more than one crew at any given time.

(b) The blaster-in-charge shall—

(1) Be certified by the appropriate regulatory authority for all blasting operations conducted under a State, Federal or Federal lands program;

(2) Ensure that blast design and execution meet Office standards prescribed in 30 CFR 816.61–68 or 817.61–68, this Part 850, and any applicable additional State standards;

(3) Directly supervise blast preparation and execution at the blast site to ensure that such standards are met;

(4) Be present at the site when the blast is detonated;

(5) Ensure that all members of blasting crews under his or her supervision have adequate training to perform assigned tasks in compliance with the standards prescribed in applicable State and Federal regulations; and

(6) Limit to 12 or fewer the number of persons to be supervised at any given time in preparing and executing blasts at the blast site in surface coal mining and reclamation operations. Permission to use a larger blasting crew can be granted by the regulatory authority under § 850.12(a)(4).

(c) The blaster-in-charge may authorize members of the blasting crew to perform general blasting operations, load and unload explosives at the blasting site, prepare explosives for use in blasting, transport explosives at or near the jobsite, load explosives into drill holes, and stem or otherwise prepare explosives for detonation. However, each of these assigned duties shall be performed only after instructions from and under the direct supervision of the blaster-in-charge. The blaster-in-charge retains full responsibility for all blasting and use of explosives, including, but not limited to, keeping blasting logs and records, supervising the blasting-related activities of the workers in his or her charge, and ensuring all persons under his or her supervision have the necessary training to perform safely their assigned duties in accordance with applicable State and Federal blasting regulations.

§ 850.13 Required elements of training programs.

(a) Training course materials which cover all blasting regulations in 30 CFR Chapter VII and other relevant Federal regulations shall be developed and made available by the Office for use in State, Federal and Federal lands programs.

(b) The regulatory authority shall provide for a blaster training program which includes—

(1) Development of training course materials which cover all applicable State regulations for blasting in surface coal mining operations;

(2) Conducting instructor training courses;

(3) Making available, upon request, Office-developed and State-developed blaster training course materials; and

(4) Conducting, as resources permit, blaster training courses, especially for employees of small operators.

(c) Training courses for persons who want to be certified as blasters shall include all skills, knowledge, and abilities determined through validity studies as necessary for performance as a blaster-in-charge.

(d) The regulatory authority shall encourage on-the-job training and experience for potential blasters in a variety of the tasks listed in 30 CFR 850.12(c), so that potential blasters can subsequently meet the experience requirements for blaster certification.

§ 850.14 Required elements of certification programs.

(a) Each applicant for blaster certification shall be required to pass a national qualifying examination established by the Office and shall present acceptable proof of types and length of experience required by the Office.

(b) Examinations may vary among State programs, depending on State requirements that are in addition to the requirements imposed by the Office. However, the standardized national examination established by the Office shall be included in each State examination and shall include questions designed to test all skills, knowledge and abilities determined through validity studies as necessary for performance as a blaster-in-charge.

(c) Each applicant for blaster's certification shall receive written notification from the regulatory authority, within 30 days of examination, as to the applicant's certification status.

(d) Applicants who fail to qualify in the examination may reapply for examination by submitting a new application to the examining authority after a 30-day period from notification of failure.

(e) Terms and conditions of certification:

(1) Certification shall be for a period of 3 years and shall be made only to a person who passes the required Office and State examinations and presents acceptable proof of required experience. The certificate shall include the person's name, address, photograph, and signature.

(2) Each certified blaster shall apply for recertification every 3 years to the regulatory authority. To be recertified, persons shall meet any experience requirements imposed by the Office or State.

(3) Each certified blaster who fails to obtain recertification at the end of 3 years shall be required to apply for reexamination and shall meet experience standards. In any event, reexamination is required every 6 years.

(4) Each certified blaster shall, upon request, exhibit his or her blaster's certificate to any duly authorized representative of the regulatory authority or the Office.

(5) Certification shall not be reassigned or transferred.

(f) Suspension or revocation:

(1) Under a Federal program or Federal lands program, the Secretary may suspend or revoke a blaster's certificate following notice and an opportunity for a hearing pursuant to 43 CFR Part 4, Subchapter L. A State regulatory authority may suspend or revoke a certificate in accordance with hearing procedures provided in the approved State plan. The regulatory authority may revoke a blaster's certificate for any of the following reasons:

(i) Noncompliance with any blasting-related order of the regulatory authority.

(ii) Violation of the provision of any Federal blasting or explosives law or regulation that affects implementation of blasting regulations in 30 CFR Chapter VII.

(iii) Proof that false information was willfully given or misrepresentation willfully made to obtain the certification.

(iv) Proof of current addiction to alcohol, narcotics, or other dangerous drugs, or proof that the certified blaster has used such substances in the workplace.

(v) Proof that the certified blaster participated in assigning or transferring certification to a person other than the person to whom the regulatory authority issued it.

(2) In any instance where the regulatory authority considers continued blasting by the blaster involved to be a threat to public safety or the environment, certification shall be suspended until completion of a hearing. In such event, a hearing shall be conducted within 20 days of the notice of suspension.

(3) In the event of immediate suspension, the suspended blaster-in-charge may, at any time, request immediate relief from the regulatory authority. Within 5 days after receipt of such a request, the regulatory authority must hold a hearing and issue a decision.

(g) Any certified blaster whose certification has been revoked because of violation of any applicable Federal or State blasting or explosives law or regulation shall be required to pass a qualifying examination before being recertified.

(h) The length of suspension or revocation and the severity of any other penalties for offenses which provoke such actions shall be determined by the regulatory authority.

[FR Doc. 80-38601 Filed 12-11-80; 8:45 am]
BILLING CODE 4310-05-M

federal register

Friday
December 12, 1980

Part X

Department of Commerce

Office of the Secretary

Privacy Act of 1974; Amendment of Access Regulations and Annual Publication of Systems of Records

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4b

Amendments to Appendices of Privacy Act Rules

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce revises the appendices to the Privacy Act rules. The revisions to Appendices A and B, which are lists of Department officials to whom individuals should address Privacy Act requests and appeals, reflect Departmental organizational changes. Appendix C has been updated to reflect changes in government-wide systems that apply to the Department.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Donald S. Budowsky, U.S. Department of Commerce, Office of Organization and Management Systems, Washington, D.C. 20230, telephone 202-377-4217.

SUPPLEMENTARY INFORMATION: Appendices A and B are revised to reflect address changes and organizational changes such as the position title of a Departmental official or the name of a Department component. Appendix C has been revised to show changes in government-wide systems such as the recent coverage of Federal Equal Employment Opportunity Discrimination Complaint Records by the Equal Employment Opportunity Commission. Explanation of the revisions to these appendices follows:

In Appendix A, "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment":

i. The title and address of the designated privacy officer for the Bureau of Industrial Economics are "Administrative Officer, Room 4845, Bureau of Industrial Economics, Main Commerce Building, Washington, D.C. 20230".

ii. Change "Industry and Trade Administration" to "International Trade Administration". The title and address of the Privacy Officer have been changed to the following: "Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, Main Commerce Building, Washington, D.C. 20230".

iii. The title of the National Oceanic and Atmospheric Administration Privacy Officer has been changed from "Assistant Administrator for Administration" to "Assistant Administrator for Management and Budget".

iv. Delete "Sills Building" from the address of the National Technical Information Service Privacy Officer.

v. Privacy Act records of the U.S. Fire Administration (USFA), formerly a component of the Commerce Department, are now controlled by the Federal Emergency Management Agency. Accordingly, the reference to the USFA Privacy Officer is deleted.

In Appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment":

vi. The title and address of the Bureau of Industrial Economics Privacy Appeals Officer are: "Director, Bureau of Industrial Economics, Main Commerce Building, Washington, D.C. 20230".

vii. Change "Industry and Trade Administration" to "International Trade Administration" and change the designated Privacy Officer from "Assistant Secretary for Industry and Trade" to "Under Secretary for International Trade".

viii. Delete "Sills Building" from the address of the National Technical Information Service.

ix. The reference to the U.S. Fire Administration Privacy Appeals Officer is deleted for the reasons noted in paragraph v., above.

In Appendix C, "Systems of Records Noticed by Other Agencies and Applicable to Records of the Department and Applicability of this Part Thereto":

x. Change "Civil Service Commission" to "Office of Personnel Management".

xi. Add "Equal Employment Opportunity Complaint Records and Appeal Records" to the "Category of Records" column and add "Equal Employment Opportunity Commission" to the "Other Federal Agency" column. This revision reflects the adoption by the Equal Employment Opportunity Commission of portions of CSC/GOVT-1, Appeals, Grievances, and Complaint Records, a Government-wide system of records. This modified system became effective October 10, 1980 (see 45 FR 67460).

Since these revisions of Appendices A, B, and C pertain solely to internal agency management, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. This regulation is not significant under Executive Order 12044. Accordingly, Appendices A, B, and C to § 46 of Title 15 of the Code of Federal Regulations are revised to read as follows:

APPENDIX A

OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

For records in systems of records located in—Privacy Officer[2]	
The Office of the Secretary and all Departmental staff offices	Director, Office of Organization and Management Systems, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General	Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G Street, N.W., Room 1000, Washington, D.C. 20006.
Bureau of Economic Analysis	Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.
Bureau of the Census	Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Bureau of Industrial Economics	Administrative Officer, Room 4845, Main Commerce Building, Washington, D.C. 20230.
Economic Development Administration	Director, Office of Public Affairs, EDA, Main Commerce Building, Washington, D.C. 20230.
International Trade Administration	Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, Main Commerce Building, Washington, D.C. 20230.
Maritime Administration	Secretary of the Maritime Administration, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency	Privacy Officer, Office of Chief Counsel, MBDA, Main Commerce Building, Washington, D.C. 20230.
National Bureau of Standards	Deputy Director for Information Systems, NBS, Room A1105, Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration:	
Inquiries Only:	
All NOAA except NOAA Corps	Assistant Administrator for Management and Budget, NOAA, 6010 Executive Blvd., Rockville, Maryland 20852.
NOAA Corps	Director, NOAA Corps, 6010 Executive Boulevard, Rockville, Maryland 20852.
Requests:	
All NOAA including NOAA Corps	Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.
National Telecommunications & Information Administration	Director of Administration, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.
National Technical Information Service	Associate Director for Financial and Administrative Management, NTIS, Springfield, Virginia 22161.
Patent and Trademark Office	Assistant Commissioner for Administration, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel Service	Director, Office of Administration, USTS, Main Commerce Building, Washington, D.C. 20230.

[1] National Oceanic and Atmospheric Administration subject to division of responsibilities noted below.

[2] If the location of the records within the Department is unknown, address the inquiry to the Privacy Officer for the Office of the Secretary.

APPENDIX B

OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of records located in—	*Privacy Appeals Officer*
The Office of the Secretary and all Departmental staff offices	Assistant Secretary for Administration, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General	Inspector General, Main Commerce Building, Washington, D.C. 20230.
Bureau of Economic Analysis	Director, Bureau of Economic Analysis, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.
Bureau of the Census	Director, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Bureau of Industrial Economics	Director, Bureau of Industrial Economics, Main Commerce Building, Washington, D.C. 20230.
Economic Development Administration	Assistant Secretary for Economic Development, Main Commerce Building, Washington, D.C. 20230.
International Trade Administration	Under Secretary for International Trade, Main Commerce Building, Washington, D.C. 20230.
Maritime Administration	Assistant Secretary for Maritime Affairs, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency	Director, Minority Business Development Agency, Main Commerce Building, Washington, D.C. 20230.
National Bureau of Standards	Director, National Bureau of Standards, Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration	Administrator, National Oceanic and Atmospheric Administration, Main Commerce Building, Washington, D.C. 20230.
National Telecommunications & Information Administration	Assistant Secretary for Communications and Information, 1800 G Street, N.W., Washington, D.C. 20504.
National Technical Information Service	Director, National Technical Information Service, Springfield, Virginia 22161.
Patent and Trademark Office	Commissioner, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel Service	Assistant Secretary for Tourism, Main Commerce Building, Washington, D.C. 20230.

APPENDIX C

SYSTEMS OF RECORDS NOTICED BY OTHER AGENCIES AND APPLICABLE TO RECORDS OF THE DEPARTMENT AND APPLICABILITY OF THIS PART THERETO

Category of Records	*Other Federal agency*
Federal Personnel Records	Office of Personnel Management [1]
Federal Employee Compensation Act Program	Department of Labor [2]
Equal Employment Opportunity under E.O. 11246, as amended	Department of Labor [2]
Foreign Service Officer Appraisals	Department of State [3]
Payroll and Travel Records of Department Employees at Diplomatic Posts Overseas.	Department of State [3]
Equal Employment Opportunity Complaint Records and Appeal Records.	Equal Employment Opportunity Commission [4]

[1] The provisions of this part do not apply to these records covered by notices of systems of records published by the U.S. Office of Personnel Management for all agencies. The regulations of that Office alone apply.

[2] The provisions of this part apply only initially to these records covered by notices of systems of records published by the U.S. Department of Labor for all agencies. The regulations of that Department attach at the point of any denial for access or for correction or amendment.

[3] The provisions of this part do not apply to these records covered by notices of systems of records published by the U.S. Department of State for all agencies. The regulations of that Department alone apply.

[4] The provisions of this part do apply to these records covered by notices of systems of records published by the Equal Employment Opportunity Commission for all agencies.

Authority: 5 U.S.C. 552a.

Dated: November 24, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-37774 Filed 12-11-80; 8:45 am]

BILLING CODE 3510-17-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Privacy Act Issuances; Annual Republication of Systems of Records

AGENCY: U.S. Department of Commerce.

ACTION: Annual notice of systems of records; proposal to revise two existing systems.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The purpose of this document is to fulfill the annual notice requirement by:

(a) Listing all the Privacy Act systems of records maintained by the Department of Commerce; and

(b) Publishing the full unified text of all Privacy Act systems of records.

Also, this document contains a proposal to revise two existing systems.

DATES: This document fulfills the annual notice requirements of the Privacy act of 1974. Comments on the proposal to revise two existing systems are due.

FOR FURTHER INFORMATION CONTACT: Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

SUPPLEMENTARY INFORMATION:

EXPLANATION OF ANNUAL NOTICE DOCUMENT

To facilitate public understanding of the Commerce Department's Privacy Act implementation, set forth below are:

(1) An explanation of proposed changes to systems of records for which public comment is invited—, the proposal of revised routine uses for COMMERCE/DEPT-2, Accounts Receivable, and for COMMERCE/MARAD-1, Applications to U.S. Merchant Marine Academy (Appendix I);

(2) An explanation of changes not requiring public comment (Appendix II).

(3) A list of changes to systems of records noticed in the FEDERAL REGISTER since last year's republication (Appendix III); and

(4) The complete unified text of all systems. The text includes a Table of Contents listing *all* systems of the Department and incorporates the material from items (1), (2), and (3) above.

For the items in Appendix I, the public is invited to submit written data, views, or arguments to the Assistant Secretary for Administration (Attn: Information Policy Division, Room 5319), U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4217), any time on or before. These changes will become effective unless the Department notices to the contrary.

The comments received will be available as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

Simultaneously with this 1980 annual notice document, notice has been submitted for publication in the Rules section of the FEDERAL REGISTER [1] to indicate changes in the designation of individuals authorized to act on Privacy Act requests and appeals, Appendices A and B to the Departmental rules at 15 CFR Part 4b. The notice also updates Appendix C, systems of records covered by other agencies and applicable to the Department.

Information about the systems and rules is available by writing or calling Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

AUTHORITY: 5 U.S.C. 552a.

Dated: November 24, 1980.

Elsa A. Porter,
Assistant Secretary for Administration.

[1] The rule document is published in the same part as this notice.

APPENDIX I

Proposed Changes to Commerce Department Systems of Records for Which Public Comment Is Invited

1. Revise the routine use paragraph for the COMMERCE/DEPT-2 system, Accounts Receivable, to permit reporting of delinquent debts to credit bureaus. General Accounting Office-Department of Justice joint regulations require that agencies establish procedures for reporting delinquent debts to commercial credit bureaus (4 CFR 102.4). These procedures must give due regard to compliance with the Privacy Act of 1974. Accordingly, the routine use section as revised would read (new text in solid capitals): Billing debtors, REPORTING DELINQUENT DEPTS TO CREDIT BUREAUS, reporting to the Office of Personnel Management for liquidating debts from retirement and other benefits, and routine uses per Prefatory Statement.

2. Revise the routine use paragraph for the COMMERCE/MA-1 system, Applications to U.S. Merchant Marine Academy. The routine use paragraph as revised would read (new text in solid capitals): See routine use paragraphs of Prefatory Statement. ALSO, THE MEMBER OF CONGRESS OR OTHER NOMINATING AUTHORITY IS ADVISED OF THE OUTCOME OF AN INDIVIDUAL'S CANDIDACY AND A BRIEF STATEMENT OF THE BASIS OF THAT OUTCOME.

APPENDIX II

Changes to Commerce Department Systems of Records Not Requiring Public Comment

1. The COMMERCE/DEPT-10 system, Foreign Residence Requirement Waiver Applicants, is deleted because the records in the system are no longer maintained by name or other personal identifier.

2. The COMMERCE/DEPT-18 system, Employee Personnel Files Not Covered by Notices of Other Agencies, is being revised to include grievance records, previously covered by OPM/GOVT-2, Grievance Records. The Office of Personnel Management plans to delete this government-wide system. Agency comments had indicated that such records would be more appropriately maintained in individual agency systems of records. To insure continued Privacy Act coverage of this Department's grievance records, the appropriate information from OPM/GOVT-2 has been incorporated into COMMERCE/DEPT-18.

3. The COMMERCE/DEPT-22 system, Secretarial Correspondence Files, has been revised, renamed, and renumbered COMMERCE/DEPT-10, Executive Correspondence Files. These changes have been made to extend Privacy Act coverage to correspondence files in five Departmental components. In these units, executive correspondence is retrieved alphabetically by name.

4. Privacy Act records of the U.S. Fire Administration, which were referenced in the December 27, 1979 republication, are no longer Department of Commerce records. As noted in the August 1, 1980 FEDERAL REGISTER (45 FR 51431), these records are now controlled by the Federal Emergency Management Agency.

5. The COMMERCE/ITA-1 system, Individuals Identified in Export Administration Proceedings or Investigations, and the COMMERCE/ITA-2 system, Individuals Involved in Export Transactions, have been merged to form COMMERCE/ITA-1, Individuals Identified in Export Transactions.

6. The routine use paragraph for the COMMERCE/PAT-TM-9 system, Patent Assignment Records, has been revised solely for clarity. There are no substantive changes (i.e., no new purpose, no new recipient).

7. The COMMERCE/NOAA-12 system, Marine Recreational Fishermen's Catch Statistics, has been revised and renamed. It is now COMMERCE/NOAA-6, Fishermen's Statistical Data. The system now includes data gathered under a Fishing Licensing System developed to monitor Fishery Management Plans imposed by the Fishery Conservation and Management Act of 1976. The System now covers commercial fishermen in addition to recreational fishermen.

8. It has been determined that the old student registration records of the Interagency Auditor Training Center, COMMERCE/IATC-1, Auditor Training Registrants, will be retained by the Commerce Department, even though the Training Center was transferred to the Agriculture Department in 1979. These records will be retired in accordance with the Records Control Schedule.

9. Lastly, certain minor changes were made throughout the notice of systems. These include: revision of the list of acronyms, the table of contents, position titles and office names because of reorganization, and correction of typographical errors.

The table of contents revisions include re-numbering systems to remove gaps created by terminated systems. Department-wide systems were re-numbered as well as the following components: ITA, MARAD, NBS, NOAA, and NTIA.

APPENDIX III

Changes to Systems of Records Noticed in the Federal Register after December 27, 1979 and Prior to the Date of This Notice

1. March 6, 1980 FEDERAL REGISTER, page 14616; adoption of previously proposed COMMERCE/NOAA-20 system, Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils; and adoption of previously proposed change to the COMMERCE/DEPT-16 system, Property Accountability Files.

2. June 13, 1980 FEDERAL REGISTER, page 40200; adoption of previously proposed amendment to COMMERCE/DEPT-18, Employee Personnel Files Not Covered by Notices of Other Agencies.

3. August 22, 1980 FEDERAL REGISTER, page 56123; proposal to establish a new system of records COMMERCE/NBS-7, NBS Emergency Locator System.

4. November 7, 1980 FEDERAL REGISTER, page 74016, adoption of previously proposed COMMERCE/NBS-7 system, NBS Emergency Locator System.

SYSTEMS OF RECORDS*

*The identification of the unit or units within the Department to which the particular system of records pertains appears as "COMMERCE/" followed by a designating abbreviation. The abbreviations and their meanings are as follows:

CENSUS—Bureau of the Census
DEPT—Overall Department of Commerce (or at least multiple operating units presently, and a potential for more)
ITA—International Trade Administration
IATC—Interagency Auditor Training Center
MA—Maritime Administration
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PAT-TM—Patent and Trademark Office
WBO—Interagency Task Force on Women Business Owners

Other abbreviations appearing in the notices are as follows:

ARC—The Appalachian Regional Commission
BEA—Bureau of Economic Analysis
BIE—Bureau of Industrial Economics
EDA—Economic Development Administration
Office of Federal
Cochairmen—Office(s) of Federal Cochairmen of the Regional Action Planning Commissions and The Appalachian Regional Commission
MBDA—Minority Business Development Agency
RAPCS—Regional Action Planning Commissions.
USTS—United States Travel Service

Prefatory Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into, each system of records set forth below.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local, or international agency, in

response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 15 CFR Part 4b if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C 552a(f)(3) and implementing regulations at 15 CFR 4b.6.

7. (Deleted; Reserved)

8. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

10. A record in this system of records may be disclosed, as a routine use, to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

11. (Deleted; Reserved)

12. A record in this system may be transferred, as a routine use, to the Office of Personnel Management: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

National Defense and Foreign Policy Exemption

Some systems of records under the Act which are maintained by the Department contain, from time-to-time, material subject to the specific exemption authorized by 5 U.S.C 552a(k)(1), relating to national defense and foreign policy materials. The systems of records noticed below, and also listed in 15 CFR 4b.14(a) of the regulations published in the FEDERAL REGISTER, which are subject to this determination of specific exemption under 5 U.S.C. 552a(k)(1) are:

COMMERCE/ITA-1
COMMERCE/ITA-2
COMMERCE/NOAA-5
COMMERCE/PAT-TM-4
COMMERCE/PAT-TM-6
COMMERCE/PAT-TM-7
COMMERCE/PAT-TM-8
COMMERCE/PAT-TM-9
COMMERCE/DEPT-12
COMMERCE/DEPT-13
COMMERCE/DEPT-14

The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The materials would be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The reason therefor is to protect the material required by Executive Order to be kept secret in the interest of the national defense and foreign policy.

TABLE OF CONTENTS OF DEPARTMENT OF COMMERCE

SYSTEMS OF RECORDS UNDER THE PRIVACY ACT OF 1974

DEPT—1 Attendance, Leave, and Payroll Records of Employees and Certain Other Persons
DEPT—2 Accounts Receivable
DEPT—3 Conflict of Interest Records, Appointed Officials
DEPT—4 Congressional Files
DEPT—5 Freedom of Information and Privacy Request Records
DEPT—6 Visitor Logs and Permits for Facilities Under Department Control
DEPT—7 Employee Accident Reports
DEPT—8 Employee Applications for Motor Vehicle Operator's Card
DEPT—9 Travel Records (Domestic and Foreign) of Employees and Certain Other Persons
DEPT—10 Executive Correspondence Files
DEPT—11 Work Schedule Study Interview Records
DEPT—12 Investigative and Inspection Records
DEPT—13 Investigative and Security Records
DEPT—14 Litigation, Claims, and Administrative Proceeding Records
DEPT—15 Private Legislation Claimants-Central Legislative Files
DEPT—16 Property Accountability Files
DEPT—17 Records of Cash Receipts
DEPT—18 Employee Personnel Files Not Covered by Notices of Other Agencies
DEPT—19 Department Mailing Lists
DEPT—20 Biographical Files
CENSUS—1 Agriculture Census Records for 1969 (partial), 1974 1978
CENSUS—2 Employee Productivity Measurement Records
CENSUS—3 Individual and Household Statistical Surveys and Special Studies Records
CENSUS—4 Minority-Owned Business Enterprises Survey Records
CENSUS—5 Population and Housing Census Records of the 1960 and Subsequent Censuses
CENSUS—6 Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses
CENSUS—7 Special Censuses of Population Conducted for State and Local Government
ITA—1 Individuals Identified in Export Transactions
ITA—2 Individuals Involved in International Business Trade Complaints
ITA—3 Mission Directors/Seminar Chairmen/Industry Technical Representatives
ITA—4 Membership Information: District Export Councils
ITA—5 National Defense Executive Reserve Personnel Folders
ITA—6 Foreign Service Officer Evaluations
IATC—1 Auditor Trainee Registrants
MA—1 Applications to U.S. Merchant Marine Academy (USMMA)
MA—2 Cadet Files, State Maritime Academies
MA—3 Citizenship Statements and Affidavits
MA—4 General Agent's Protection and Indemnity and Second Seaman's Insurance: WSA and NSA
MA—5 Marine Training School Registrants
MA—6 Waivers of Liability to Board Reserve Fleet Vessels and Other Craft Located at U.S. Merchant Marine Academy
MA—7 National Defense Executive Reserve
MA—8 Non-Attorney Practitioner Applications and "Section 807 Reports"
MA—9 Seaman's Awards for Service, Valor, etc.
MA—10 Seamen's Employment Analysis Records
MA—11 Seamen's Unclaimed Wages (Vietnam Conflict)
MA—12 Shipyard Labor Supply and Demand Programs
MA—13 USMMA Non-Appropriated Fund Employees
MA—14 USMMA Graduates
MA—15 USMMA Midshipman Deposit Account Records
MA—16 USMMA Midshipman Grade Transcripts
MA—17 USMMA Midshipman Medical Files
MA—18 USMMA Midshipman Personnel Records
NBS—1 NBS Guest Workers
NBS—2 Inventors of Energy-Related Processes and Devices
NBS—3 Research Associates
NBS—4 Employees External Radiation Exposure Records

NBS—5 Nuclear Reactor Operator Licensees File
NBS—6 Participants in Experiments, Studies, and Surveys
NBS—7 NBS Emergency Locator System
NOAA—1 Applicants for the NOAA Corps
NOAA—2 Commissioned Officers Official Travel Orders Folders
NOAA—3 Commissioned Officer Official Personnel Folders
NOAA—4 Commissioned Officers Retired Payroll
NOAA—5 Fisheries Law Enforcement Case Files
NOAA—6 Fishermen's Statistical Data
NOAA—7 Guest Workers at National Geophysical and Solar-Terrestrial Data Center
NOAA—8 Individuals Engaged in Weather Modification Activities
NOAA—9 Scientist-Researchers in GATE (Global Atmospheric Research Program Atlantic Tropical Experiment)
NOAA—10 NOAA Diving Program File
NOAA—11 NOAA Mailing Lists
NOAA—12 Marine Mammal, Endangered and Threatened Species, Permits, and Exemptions Applicants
NOAA—13 Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils
NTIA—1 Radio Spectrum Management Career Development Program
NTIS—1 Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files
NTIS—2 Employee Daily Time and Productivity Records
PAT/TM—1 Attorneys and Agents Registered to Practice Before the Office
PAT/TM—2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents
PAT/TM—3 Employee Production Records
PAT/TM—4 Government Employee Invention Rights
PAT/TM—5 Non-Registered Persons Rendering Assistance To Patent Applicants
PAT/TM—6 Parties Involved In Patent Interference Proceedings
PAT/TM—7 Patent Application Files
PAT/TM—8 Patent Application Secrecy Order Files
PAT/TM—9 Patent Assignment Records
PAT/TM—10 Patent Deposit Accounts System
PAT/TM—11 Patent Examiner Testimony Files
PAT/TM—12 Patent Subscription Service System
PAT/TM—13 Petitioners for License to File for Foreign Patents
PAT/TM—14 Users of Public Search Room of the Patent and Trademark Office
WBO—1 Talent and Experience File of Women's Business Experts

COMMERCE/DEPT-1.

System name: Attendance, Leave, and Payroll Records of Employees and Certain Other Persons—COMMERCE/DEPT-1.

System location: a. For employees of Departmental Offices, BEA, BIE, EDA, ITA, MBDA, USTS, Offices of Federal Cochairmen, RAPCs, and ARC: Office of Financial Operations, OS, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, and Office of Information Management (Computer Services Division), use above address.

b. For employees of MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For employees of NBS, NTIS, and NTIA: National Bureau of Standards, Office of the Comptroller, (Payroll Office), Administration Building, Washington, D.C. 20234. NTIA records dating prior to March 26, 1978, relating to employees of the former Office of Telecommunications Policy, Executive Office of the President, are located at General Services Administration Region 3 Office, 7th & D Streets, N.W., Washington, D.C. 20407.

d. For employees of NOAA: National Oceanic and Atmospheric Administration, Office of Finance, Personal Service Accounting Division, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of Finance (Employee Accounts Division), U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

Categories of individuals covered by the system: All Commerce Department employees and certain other persons as categorized by organizational component in a. through f. above.

Categories of records in the system: Name, date of birth, social security number and employee number, service computation date, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, state, and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, absence without leave, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Title 5 U.S.C., Title 31 U.S.C. 66a, 492, Title 44 U.S.C. 3101, 3309.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to U.S. Treasury and employee-designated financial institutions to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, and other authorized purposes.

Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Office of Personnel Management; charity contribution deductions to agents of charitableinstitutions; annual W-2 statements to taxing authorities and the individual; wage, employment, and separation information to state unemployment compensation agencies, to the Department of Labor to determine eligibilty for unemployment compensation, and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Office of Personnel Management for preparation of statistical materials. Also, see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable.

Retrievability: By name and/or employee or social security number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred either to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: For records at location a.: Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230;

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Chief, Personal Service Accounting Division, Office of Finance, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230;

For NBS and NTIS records at location c., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individuals, those authorized by the individual to furnish information, supervisors, timekeepers, official personnel records, and IRS.

COMMERCE/DEPT-2.

System name: Accounts Receivable—COMMERCE/DEPT-2.

System location: a. For Departmental offices, BEA, BIE, ITA, USTS, MBDA, Offices of Federal Cochairmen, RAPCs, and ARC: (manual) Office of Financial Operations, (machine-readable) Office of Information Management, Computer Services Division, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. For MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, Maritime Administration, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For NBS and NTIA: National Bureau of Standards, Office of the Comptroller, Administration Building, Washington, D.C. 20234.

d. For NOAA: Office of Finance, National Oceanic and Atmospheric Administration, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

g. For NTIS: Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

h. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Debtors owing money to organizational components identified in a. through h., including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Name and address; amount owed, and service, overpayment or other accounting therefor; invoice number, if any.

Authority for maintenance of the system: 5 U.S.C. 5701-09; 31 U.S.C. 951-953, 4 CFR Sec. 102.4, FPMR 101-7; Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Billing debtors, reporting delinquent debts to credit bureaus, reporting to Office of Personnel Management for liquidating debts from retirement and other benefits, and routine uses per Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable records.

Retrievability: By name, and invoice number as appropriate.

Safeguards: Physical security, handling by authorized personnel only.

Retention and disposal: Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

System manager(s) and address: For records at location a.: Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Director, Office of Finance, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g.: Chief, Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

For records at location h.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For NBS records at location c., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Associate Director for Financial and Administrative Management,

National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

For records at location h., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name and address, and invoice number as appropriate, pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

COMMERCE/DEPT-3.

System name: Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3.

System location: Office of General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals, past and present, appointed by the President to Commerce Department offices and other senior level officers of the Department.

Categories of records in the system: Statements of personal and family shareholdings and other interests in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of such interests; opinions of counsel; and confirmation materials.

Authority for maintenance of the system: 5 U.S.C. 301, 18 U.S.C. 208, 28 U.S.C. 533-535, 44 U.S.C. 3101, E.O. 10450, and E.O. 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Disposed of 2 years after separation of employee.

System manager(s) and address: Deputy General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and date of appointment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject individual, financial institutions involved, counsel, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

COMMERCE/DEPT-4.

System name: Congressional Files—COMMERCE/DEPT-4.

System location: a. Office of the Assistant Secretary for Congressional Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. Office of the Director of Congressional and Public Affairs, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: Members of Congress.

Categories of records in the system: Biographical information from sources such as the Congressional Quarterly, Almanac of American Politics, Congressional Directory, biographies provided by Members' Offices, extracts from the Congressional Record, and correspondence between the Members and the Department.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form only.

Retrievability: Indexed by name of Member or State or Congressional District.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained in accordance with the Office's Record Control Schedule.

System manager(s) and address: For records at location a.: Assistant Secretary for Congressional Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location b.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504.

Notification procedure: For records at location a.: Information may be obtained from: Departmental Office of Organization and Management Systems, OS, U. S. Departmentof Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location b.: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504. Requester should provide name of Member pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Published Congressional reference materials and the Member, himself or herself.

COMMERCE/DEPT-5.

System name: Freedom of Information and Privacy Request Records—COMMERCE/DEPT-5.

System location: a. For FOIA request records of CENSUS: Freedom of Information Request Control Desk, Bureau of the Census, Federal Building 3, Suitland, Md. 20233.

b. For FOIA and PA request records of ITA: Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

c. For PA request records of MARAD: Office of the Secretary of the Maritime Administration, and offices of MARAD Privacy Act system managers, U.S. Department of Commerce, Washington, D.C. 20230. A complete address list of system managers is available upon request.

d. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Md. 20852.

e. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

f. For PA request records of the Office of the Secretary: Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

Categories of records in the system: Incoming requests; correspondence developed during processing of requests; initial and final determination letters; records summarizing pertinent facts about requests and action taken; copy or description of records released; description of records denied (copies of records denied are not kept with these files).

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 552a and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Department management and legal personnel to assure that each request receives an appropriate reply and to compile data for the required annual reports on activities under the Acts. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: At all locations: Paper records in file folders or loose-leaf binders.

Retrievability: At location b.: By control number assigned to each request based on date of receipt.

At all other locations: Alphabetically by name of requester.

Safeguards: At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

Retention and disposal: Records are disposed of in accordance with the appropriate records disposition authorization approved by the Archivist of the United States.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census.

For records at location b.: Privacy Act Officer, ITA.

For records at location c.: Secretary of the Maritime Administration.

For records at location d.: Assistant Administrator for Management and Budget, NOAA.

For records at location e.: Director, Office of Administration, NTIA.

For records at location f.: Director, Office of Organization and Management Systems, U.S. Department of Commerce.

For each system manager, use the same address as shown for that unit in the System Location section above.

Notification procedure: For records at locations a., b., c., d., and f.: Same individual and address for each as shown in System Manager section above.

For records at location e.: Privacy Officer, NTIA, same address as shown in System Manager section above.

Requestor should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual making the request, and records derived from the processing of Freedom of Information and Privacy Act requests.

COMMERCE/DEPT-6.

System name: Visitor Logs and Permits for Facilities Under Department Control—COMMERCE/DEPT-6.

System location: a. Maritime Administration: Beaumont Reserve Fleet, Beaumont, Texas; James River Reserve Fleet, Fort Eustis, Virginia; Suisun Bay Reserve Fleet, Benicia, California; and U.S. Merchant Marine Academy, Kings Point, New York.

b. National Bureau of Standards: Security Office, Administration Building, Washington, D.C. 20234; and Physical Security Office, Radio Building, NBS, Boulder, Colorado 80302.

Categories of individuals covered by the system: Non-Federal visitors, Federal personnel entering facilities after duty hours, and employees seeking parking and firearm permits.

Categories of records in the system: Name, address, place of birth, citizenship, physical characteristics, type and number of firearms and amount of ammunition, purpose of visit, affiliation, time in and time out, license numbers, and records of violations.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name, or date and time.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained on site for five years, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Superintendent of respective Reserve Fleets and Chief, Fire and Security, U.S. Merchant Marine Academy, Department of Public Works, Kings Point, New York.

For records at location b.: Security Officer, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: For records at location a., information may be obtained from: Secretary, Maritime Administration, Main Commerce Building, Washington, D.C. 20230.

For records at location b., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Requesters should provide name and address, date of visit or type of permit, as appropriate, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and employers.

COMMERCE/DEPT-7.

System name: Employee Accident Reports—COMMERCE/DEPT-7.

System location: a. For employees of Departmental Offices, BEA, BIE, and USTS: Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For employees of MARAD: Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

e. For employees of MBDA: Office of Planning, Budget and Evaluation, Minority Business Development Agency, Washington, D.C. 20230.

f. For employees of NBS: Occupational Health and Safety Division, Supply and Plant Building, NBS, Washington, D.C. 20234.

g. For employees of NOAA: Office of Administrative Operations, National Oceanic and Atmospheric Administration, 6010 Executive Blvd., Rockville, Md. 20852.

h. For employees of NTIS: Facilities Management Division, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

i. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

j. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Building 4, Washington, D.C. 20233.

k. For employees of NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: All Department employees as categorized by organization component in a. through k., above, who have sustained occupational injury/illness or who have been involved in a motor vehicle accident while on official Government business,

Categories of records in the system: Name; address; home telephone number; date and place of birth; sex; social security number; occupation; grade; location and description of accident or injury; driving permit or license data; physical condition at time of incident; insurance information; vehicle ownership and licensing data.

Authority for maintenance of the system: 29 U.S.C. 651-78, 28 U.S.C. 2671-2680, Executive Order 12196.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, accident reports involving Government vehicles are disclosed to the General Services Administration, the custodian of Government vehicles; accident information may also be disclosed to insurance carriers during resolution of claims.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed after 5 years.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: Safety. Officer, Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Assistant Director, Office of Planning, Budget, and Evaluation, Minority Business Development Agency, Washington, D.C. 20230.

For records at location f.: Safety and Health Manager, Supply and Plant Building, NBS, Washington, D.C. 20234.

For records at location g.: Safety Engineer, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location h.: Chief, Facilities Management Division, Sills Building, National Technical Information Service, Springfield, Va. 22161.

For records at location i.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location j.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location k.: Safety Officer, Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For Departmental office records at location a., information may be obtained from: Director, Office of Organization and Management Systems, OS, U.S. Department of Commerce, Washington, D.C. 20230;

For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, United States Travel Service, Washington, D.C. 20230.

For records at location b., information may be obtained from: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Privacy Officer, Office of Chief Counsel, Minority Business Development Agency, Washington, D.C. 20230;

For records at location f., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location g., information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, Md. 20852;

For records at location h., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Va. 22161;

For records at location i., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For Census records at location j., information may be obtained from: Associate Director for Administration, Bureau of the Census Federal Building 3, Washington, D.C. 20233;

For records at location k., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, 1800 G Street, N.W., U.S. Department of Commerce, Washington, D.C. 20504.

Requester should provide name and approximate date of accident pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individual, those authorized by the individual to furnish information; others involved in accident; witnesses; employee's supervisor; and, the safety officer.

COMMERCE/DEPT-8.

System name: Employee Applications for Motor Vehicle Operator's Card—COMMERCE/DEPT-8.

System location: a. For employees of Departmental offices, BEA, BIE, MBDA, NTIA, Offices of Federal Cochairmen, and USTS: Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For employees of MARAD: Office of Administrative Services and Procurement, Maritime Administration, Washington, D.C. 20230; the following MARAD regional offices: 26 Federal Plaza, New York, N.Y. 10278; No. 2 Canal St., New Orleans, La. 70130; 450 Golden Gate Ave., San Francisco, Calif. 94102; 666 Euclid Ave., Rm. 576, Cleveland, Ohio, 44114, and the U.S. Merchant Marine Academy, Department of Public Works, Kings Point, L.I., N.Y. 11024.

e. For employees of NBS: Occupational Health and Safety Division, Supply and Plant Building, Washington, D.C. 20234; and Staff Services Office, Radio Building, NBS, Boulder, Colorado 80302.

f. For employees of NOAA: Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

g. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

h. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 4, Washington, D.C. 20233; and the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278, 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

i. For employees of NTIS: Facilities Management Division National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Categories of individuals covered by the system: All Department employees as categorized by organizational components in a. through i. above, who are seeking or holding a Federal vehicle operator permit.

Categories of records in the system: Name; position title; date and place of birth; physical characteristics; social security number, summary of driving record, including all arrests, traffic citations and accidents for the past five years; hearing and visual acuity examination report; road test results; and medical history.

Authority for maintenance of the system: 40 U.S.C. 471; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, information is transmitted to the Department of Transportation with request for suitability check.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed of when re-issued at the end of three years or upon employee's termination of employment.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: Director, Office of Administrative Services and Procurement, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Safety and Health Manager, Supply and Plant Building, National Bureau of Standards, Washington, D.C. 20234; and Safety Engineer, Radio Building, NBS, Boulder, Colorado 80302.

For records at location f.: Motor Fleet Manager, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location g.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i.: Chief, Facilities Management Division, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location f., information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161.

Requester should provide name, organizational unit, and approximate date of employement pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, motor vehicle departments in individual's state, and National Driver Register of the Department of Transportation.

COMMERCE/DEPT-9.

System name: Travel Records (Domestic and Foreign) of Employees and Certain Other Persons—COMMERCE/DEPT-9.

System location: a. For employees of Departmental Offices, BEA, BIE, ITA, MBDA, USTS, Offices of Federal Cochairmen, and RAPCs; members of DOC Advisory Committees; employees and certain other persons associated with ARC; and private citizens invited to visit the Department:

Paper records in Office of Financial Operations, OS, and machine-readable records in Office of Information Management, Computer Services Division, both in Main Commerce Building, Washington, D.C. 20230.

b. For employees of MARAD in Washington, D.C.: (machine-readable) Division of Data Operations, (manual) Division of Accounts, Maritime Administration, Main Commerce Building, Washington, D.C. 20230. Regional employees: U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Administration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

c. For employees of NBS and NTIA: Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

d. For employees of NOAA: Travel and Transportation Division, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852 and the following Field Finance Offices: Research Building 3, 3100 Marine Street, Boulder, Colo. 80302; Room 1760, 601 E. 12th Street, Kansas City, Mo. 64106; 75 Virginia Beach Drive, Building 2, Miami, Fla. 33149; and, North Bethesda Office Center, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the following Regional Offices for intermittent CENSUS employees: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Street, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

g. For employees of EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Employees, Advisory Committee Members, State Representatives of ARC, and official guests of the Department.

Categories of records in the system: Name, address, social security number; destination, itinerary, mode and purpose of travel; dates; expenses including amounts advanced (if any), amounts claimed, and amounts reimbursed; travel orders, travel vouchers, receipts, and passport record card.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal to U.S. Treasury for payment, to State Department for passports, and see routine use portion of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name, social security number, or travel order number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to GSA Federal Travel Regulations, and then disposed of according to unit's Records Control Schedule.

System manager(s) and address: For records at location a., Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230; U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service Officer, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Regional Director, Maritime Administration, Great Lakes Regional Office, 666 Euclid Ave., Cleveland, Ohio 44114.

For records at location c., Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d., Chief, Travel and Transportation Division, Office of Administrative Operations, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852 and the Chief of the particular Field Finance Office listed above.

For records at location e., Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the Director of the particular Regional Office listed above.

For records at location g., Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information can be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For NBS records at location c., information can be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location d., information can be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information can be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., information can be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Requester should provide name, travel order number, if known, and date of travel, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, supervisors, and finance (or accounting) office standard references.

COMMERCE/DEPT-10

System name: Executive Correspondence Files—COMMERCE/DEPT-10.

System location: a. For Office of the Secretary correspondence: Executive Secretariat and Office of Information Management (Computer Services Division); U.S. Department of Commerce; 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

b. For EDA correspondence: Executive Secretariat, EDA, Room 7227, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For MARAD correspondence: Office of the Assistant Secretary for Maritime Affairs, Room 3898, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For MBDA correspondence: MBDA Secretariat, Room 5083, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

e. For NOAA correspondence: Executive Secretariat, Office of the Administrator, NOAA, Room 5807, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Records on magnetic tape are also temporarily located at the contractor's installation: Dialcom Inc., 1104 Spring Street, Silver Spring, Md. 20910.

f. For PAT-TM correspondence: Office of the Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: (a) Individuals who correspond with the Secretary of Commerce, Deputy Secretary, or Assistant Secretary for Congressional Affairs, and individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Deputy Secretary for response. (b) Individuals who correspond with top-level officials in EDA, MARAD, MBDA, NOAA, and PAT-TM. In these categories, the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (See Freedom of Information and Privacy Request Records—COMMERCE/DEPT-5).

Categories of records in the system: The system may include the name and address of correspondent, summary of subject matter, original correspondence, official response, referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. The records in the system are arranged numerically by control number assigned to each item of correspondence.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by personnel in the Office of the Secretary, Executive Secretariats, and administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest.

Information from or copies of the records may be provided to the original addressee of the original correspondence. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form and on diskettes and magnetic tape.

Retrievability: By control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Member of Congress, White House staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, by date, or possibly by city and state of correspondent's address.

Safeguards: Paper records and magnetic tape are stored in file cabinets on secured premises with access limited to personnel whose official duties require access.

Retention and disposal: Records are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

System manager(s) and address: For records at location a: Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b: Chief, Executive Secretariat, EDA, Room 7227, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location c: Assistant Secretary for Maritime Affairs, Room 3898, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d: Chief, MBDA Secretariat, Room 5083, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location e: Director, Executive Secretariat, Office of Administrator, National Oceanic and Atmospheric Administration, Washington, D. C. 20230.

For records at location f: Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Notification procedure: For records at location a., information may be obtained from Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d., information may be obtained from Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location e., information may be obtained from the Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location f., information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. All requests for information should provide the correspondent's name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures: Request for access and disclosures should be addressed to the same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

Record source categories: The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

COMMERCE/DEPT-11

System name: Work Schedule Study Interview Records— COMMERCE/DEPT-11.

System location: George Washington University Family Impact Seminar, 1001 Connecticut Avenue, Suite 838, Washington, D.C. 20036

Categories of individuals covered by the system: MARAD and EDA employees, their spouses, and other family members, interviewed on a voluntary basis as part of the work schedule study.

Categories of records in the system: Age, sex, marital status, ages and number of children, educational background, ethnic heritage, degree of job satisfaction, attitudes and feelings toward work and work schedules, leisure activities, portion of family income derived from employee's income; information on the handling of household chores, time spent taking care of or doing things with the children, information pertaining to flexitime schedule, and notes and videotapes of interviews pertaining to the effect of employment on family life.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: George Washington University's Family Impact Seminar employees will use this information to prepare the report of the study entitled, "The Effects of Work Schedules on Families."

Storage: Paper copy in file folders, magnetic tape, and videotape.

Retrievability: By identification number cross-referenced with employees' names on master list until December 1981.

Safeguards: Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access. Only 2 George Washington University employees will have access.

Retention and disposal: Identifying information will be destroyed on or before December 1981.

System manager(s) and address: Director, Work Schedules Study, Family Impact Seminar, George Washington University, 1001 Connecticut Avenue, Suite 838, Washington, D.C. 20036.

Notification procedure: For MARAD records, information may be obtained from Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230;

For EDA records, information may be obtained from Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/DEPT-12.

System name: Investigative and Inspection Records—COMMERCE/DEPT-12.

System location: Office of Inspector General, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: a. Current and former employees of the Department of Commerce and such other persons whose association with current and former employees relate to the alleged violations of the Department's rules of conduct, the Civil Service merit system, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of Commerce. The names of individuals and the files in their names may be: 1) received by referral; or 2) initiated at the discretion of the Inspector General in the conduct of assigned duties.

b. Individuals who are: witnesses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of the Inspector General or by other agencies, constituent units of the Department of Commerce and members of the general public in connection with the authorized functions of the Inspector General.

c. Current and former Commerce officials who are the subject of investigations initiated and conducted by the Office of the Inspector General.

Categories of records in the system: Letters, memoranda, and other documents citing complaints of alleged criminal or administrative misconduct. Investigative files which include: reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits or records obtained during investigations; prior criminal or non-criminal records of individuals as they relate to the investigations; reports of actions taken by management personnel regarding misconduct; and reports from or to other law enforcement bodies.

Authority for maintenance of the system: Inspector General Act of 1978 (Public Law 95-462); Executive Orders 12065 and 10450; 44 U.S.C. 3101; 28 U.S.C. 535; 18 U.S.C. including Sections 201, 203, 205, 207, 208, 209, 210, 211, 219, 285, 287, 508, 595, 600, 602, 603, 604, 607, 608, 641, 643, 653, 654, 798, 1001, 1719, 1905, 1913, 1917, 1918, 2071, 2073; 5 U.S.C. including Sections 301, 2302, 7311, 7324, 7352; 15 U.S.C. 1512; 31 U.S.C. 638(a)(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use for law enforcement purposes will include disclosure to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility for investigating or prosecuting a violation of any law, rule, regulation or order or of enforcing or implementing any law, rule, regulation or order. Routine use for law enforcement purposes will also include disclosure to individuals or to agencies, whether Federal, State, local, foreign or international, when necessary to further the ends of an investigation. See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; and automated storage media.

Retrievability: Indices are alphabetical, cross referenced to file number.

Safeguards: Locked cabinets in secured rooms or in guarded building, and used only by authorized screened personnel.

Retention and disposal: When cases are closed records are disposed of in accordance with the unit's Records Control Schedule.

System manager(s) and address: Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G Street, N.W., Room 1060, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G Street, N.W., Room 1060, Washington, D.C. 20230. Requester should provide name and association with the Department, if any, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; Office of Personnel Management, FBI and other Federal, state, local, foreign and international agencies; individuals and organizations that have pertinent knowledge about the subject; and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Under 5 U.S.C. 552a (j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Public Law 95-462, mandates the Inspector General to recommend policies for, and to conduct, supervise and coordinate activities in the Department and between the Department and other Federal, State and local governmental agencies with respect to all matters relating to the prevention and detection of fraud in programs and operations administered or financed by the Department, and to the identification and prosecution of participants in such fraud. Under the Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law the Inspector General must report the matter expeditiously to the Attorney General. In addition to these principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints on information from various sources concerning the possible existence of activities constituting violations of law, rules or regulations, or mismanagement, gross waste of funds, abuses of authority or substantial and specific danger to the public health and safety.

The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)(2) and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

To the extent that the exemption under 5 U.S.C. 552a(j)(2) is held to be invalid, then the exemptions under 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) are claimed for all material which meets the criteria of these three subsections.

Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

Reasons for exemptions: In general, the exemption of this information and material is necessary in order to accomplish the law enforcement function of the Office of Inspector General, to prevent disclosure of classified information as required by Executive Order 12065, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Detailed reasons follow.

Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2):

1) 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

2) 5 U.S.C. 552a(c)(4), (d), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notifiy an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings, deprive co-defendants of a right to a a fair trial or other impartial adjudication, constitute an unwarranted invasion of personal privacy of others, disclose the identity of confidenial sources and reveal confidential information supplied by these sources, and disclose investigative techniques and procedures.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the catetories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

a. In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

b. Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

c. The subject of an investigation will be alerted to the existence of an investigation if any attempt is made to obtain information from subject. This could afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

d. In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

a. the authority under which the information is sought and whether disclosure of the infromation is mandatory or voluntary,

b. the purposes for which the information is intended to be used,

c. the routine uses which may be made of the information, and

d. the effects on the subject, if any, of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (b) above would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities requiring disclosure of undercover agents' identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrevelant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record of such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

Reasons for exemptions under 5 U.S.C. 552a(k)(1):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that invvestigation, information which if known might cause damage to national security.

2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to an individual's right to be ntoified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notifiy an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigations undertaken in connection with national security; or could disclose the identity of sources kept secret to protect national security or reveal confidential information supplied by these sources.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose the identity of sources kept secret to protect national security.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed: a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation involving national security matters.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violators of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

Reasons for exemptions under 5 U.S.C. 552a(k)(5):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the contest of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to make fair and objective decisions on questions of suitability for Federal employment and related issues.

4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

COMMERCE/DEPT-13.

System name: Investigative and Security Records—COMMERCE/DEPT-13.

System location: Departmental Office of Investigations and Security, OS, Main Commerce Bldg., Washington, D.C. 20230.

Categories of individuals covered by the system: Nominees, members, and former members of public advisory committees, trade missions, and export councils; employees, former employees, and prospective employees; research associates; and guest workers. Employees of contractors used, or which may be used, by the Department on national security classified projects. Principal officers of some

contractors used, or which may be used by the Depart- ment. Principal officers and some employees of organizations, firms, or institutions which are recipients or beneficiaries, or prospective recipients or beneficiaries, of grants, loans, or loan guarantee programs of the Department.

Categories of records in the system: Name; address; date and place of birth; Social Security Number; citizenship; physical characteristics; employment and military service history; credit references and credit records; education; medical history; arrest records; Federal employee relatives; dates and purpose of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and security, and suitability materials. This system does not include records of EEO investigations. Such records are covered in a government-wide system noticed by the then Office of Personnel Management and now the responsibility of the Equal Employment Opportunity Commission. For assistance contact the Privacy Officer for the Office of the Secretary.

Authority for maintenance of the system: Executive Orders 10450, 11478, 12065, 5 U.S.C. 301 and 7531-332; 15 U.S.C. 1501 et.seq.; 28 U.S.C. 533-535; 44 U.S.C. 3101; and Equal Employment Act of 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning nominees, members and former members of public advisory committees may be disclosed: (a) to OMB in connection with its committee management responsibilities; (b) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; and (c) to a Federal, state or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership.

Information concerning (1) nominees, members, and former members of trade missions and export councils; (2) current employees, former employees, and prospective employees; (3) research associates; (4) guest workers; (5) employees of contractors used, or which may be used, by the Department on national security classified projects; (6) principal officers of some contractors used, or which may be used, by the Department; and (7) principal officers and some employees of organizations, firms or institutions which are recipients or beneficiaries or prospective recipients or beneficiaries of grants, loans, guarantee or other assistance programs of the Department; — may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Locked cabinets in secure rooms in guarded buildings, and used only by authorized screened personnel.

Retention and disposal: When cases are closed, records are disposed of in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office of Investigations and Security, OS, Main Commerce Building, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and association with the Department, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; OPM, FBI and other Federal, state, and local agencies; individuals and organizations that have pertinent knowledge about the subject; and, those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all information and material in the record which meets the criteria of these subsections are exempted from the notice, access, and contest requirements under 5 U.S.C. 552a (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I), and (f) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent disclosure of classified information as required by Executive Order 12065, to assure the protection of the President, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/DEPT-14.

System name: Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT-14.

System location: a. For matters involving CENSUS: Office of the Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233. Some records may be duplicated in the offices of Census Bureau division chiefs. A complete address list of division chiefs is available upon request from the individual designated in the Notification section below.

b. For matters involving ITA tort and personal property claims; Office of Administrative Support, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For matters involving EDA: Office of Chief Counsel, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For matters involving MARAD: Maritime Administration, Office of General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

e. For matters involving NBS other than personal property loss claims and violations of traffic and grounds regulations: National Bureau of Standards, Office, of the Legal Adviser, Administration Building, Washington, D.C. 20234. For matters involving personal property loss claims, Office Management Division, Supply and Plant Building, Washington, D.C. 20234. For matters involving violations of traffic and grounds regulations at Gaithersburg, Maryland, Security Office, Administration Building, Washington, D.C. 20234 and for violations of those regulations at Boulder or Fort Collins, Colorado, Physical Security Office, NBS, Radio Building, Boulder, Colorado, 80302.

f. For matters involving NOAA: Office of General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Records in this system may also be located at other NOAA offices in the Washington, D.C. metropolitan area and in the field. A complete list of addresses is available upon request from the individual designated in the Notification section below.

g. For matters involving NTIS: Facilities Management Division, or Office of the Associate Director for Financial and Administrative Management, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

h. For matters involving NTIA: Office of the Chief Counsel, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504; or Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

i. For matters involving PAT-TM: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

j. For all other matters: Office of the General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Some of the records at locations a. through i. may be duplicated at location j. Also, the records at locations a. through j. may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the individual identified in the appropriate Notification procedure section below.

Categories of individuals covered by the system: Individuals the subject of any litigation in which the Department is involved; individuals who make administrative claims or appeals against the Department; individuals the subject of claims and administrative actions brought by the Department. Individuals cited for violation of traffic and grounds regulations. Individuals who may have provided statements or other evidence with respect to any of the above. "Department" means the U.S. Department of Commerce or any component thereof, or any officer or employee thereof.

Categories of records in the system: Names, addresses, social security account numbers, statements of claims and analyses thereof, investigatory reports, opinions of law, and pleadings, motions, depositions, rulings, opinions, citation particulars (description of vehicle, date of birth, physical characteristics, driving permit or license data, vehicle license data, etc.), and other litigation and claims documentation.

Authority for maintenance of the system: 5 U.S.C 301; 44 U.S.C Section 3101; 42 U.S.C 3211; 31 U.S.C. 240; 28 U.S.C 533-535 and 1346(b); 15 U.S.C. 277 and 278e(b); E.O. 10450; and all other authorities of the Department.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are disposed of according to unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Director, Office of Administrative Support, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c.: Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d.: General Counsel, Maritime Administration, Washington, D.C. 20230.

For records at location e.: For matters involving NBS other than personal property loss claims and violations of traffic and grounds regulations: Legal Adviser, National Bureau of Standards, Washington, D.C. 20234. For matters involving violations of traffic and grounds regulations: Chief, Facilities Services Division, National Bureau of Standards, Washington, D.C. 20234. For matters involving personal property loss claims: Staff Officer, Office Management Division, National Bureau of Standards, Washington, D.C. 20234.

For records at location f.: General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location g.: Associate Director for Financial and Administrative Management, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

For records at location h.: Chief Counsel and Director of Administration (for their respective portions), National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504.

For records at location i.: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location j.: General Counsel, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: For records at location a., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b., information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location e., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location f., information may be otained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location g., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Va. 22161.

For records at location h., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504.

For records at location i., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location j., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, social security number, case number; date of claim, organization unit in which employed, as appropriate, pursuant to the inquiry provisions which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject claimant or plaintiff; those authorized by the foregoing to furnish information; and, whatever sources pertinent to the nature of the case.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all investigatory material and material subject to the provisions of 5 U.S.C. 552(b)(1) in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to prevent disclosure of classified information as required by Executive Order 12065 in the interest of the national defense and foreign policy and in order for the Department's legal staff to properly perform its functions.

COMMERCE/DEPT-15.

System name: Private Legislation Claimants-Central Legislative Files—COMMERCE/DEPT-15.

System location: Office of the General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Individual claimants against the government seeking remedy through private relief bills in patent, contract, employee compensation, and other similar areas which involve the Department.

Categories of records in the system: Draft and formal relief bills, statements, and information as to the basis and validity of the claim, and correspondence with the claimant and the sponsor of the legislation.

Authority for maintenance of the system: 5 U.S.C. 301, Act of February 4, 1903, 32 Stat. 825.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained according to the Office's Records Control Schedule.

System manager(s) and address: Assistant General Counsel, Legislation, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, OS, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, social security number, date of claim, and name of bill, if any, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject claimant and those authorized by the claimant to furnish information; records of units of the Department primarily involved in the transaction; service or application on which the claim is founded; and the sponsoring Member of Congress.

COMMERCE/DEPT-16.

System name: Property Accountability Files—COMMERCE/DEPT-16.

System location: a. For MARAD: Supply Management Division, Maritime Administration, Washington, D.C. 20230; Department of

Administrative Service, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10278; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Administration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

b. For all libraries of the Department. For listing, see Directory of Libraries in the United States Department of Commerce, 1972, Department of Commerce, Washington, D.C.; or American Library Directory, biennial, R.R. Bowker Company, New York City.

c. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 4, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

d. For employees of NBS: Security Office, National Bureau of Standards, Administration Building, Washington, D.C. 20234. Instrument Shops Division, Shops Building, NBS, Washington, D.C. 20234; and Security Office, Radio Building, NBS, Boulder, Colorado 80302.

e. For employees of PAT-TM: Users Services Section, Scientific Library, U.S. Patent and Trademark Office, Washington, D.C. 20231.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: Employees, general public, institutions, and anyone who charges out or signs for books or other materials.

Categories of records in the system: Name; telephone number; title of book; identification of property or equipment; home and business address; employee I.D. number; position; job title; grade; organization; explanations for items not accounted for, correspondence; clearances; and, key number.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 40 U.S.C. 481-92; 15 U.S.C. 1518.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders and trays.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal files cabinets, or lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until property is accounted for, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Chief, Supply Management Division, Maritime Administration, Washington, D.C. 20230; Administrative Service Officer, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y., 10278; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Property Accountability Officer, Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Regional Director, Great Lakes Regional Office, Maritime Administration, 666 Euclid Avenue, Cleveland, Ohio 44114.

For records at location b.: The head of the respective library.

For records at location c.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

For records at location d.: Security Officer, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location e.: Program Manager, Scientific Library, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504.

Notification procedure: For records at location a.: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Address communication to the library's parent organization (e.g., National Bureau of Standards) Attention: Privacy Officer, or use the Privacy Officer's Official position title and address as listed in Appendix B to the Department's rules which appear in 15 CFR Part 4b.

For records at location c.: Information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location d.: Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location e.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231.

For records at location f.: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, N.W., Washington, D.C. 20504.

Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, book cards, and supply person providing the equipment.

COMMERCE/DEPT-17.

System name: Records of Cash Receipts—COMMERCE/DEPT-17.

System location: a. For Departmental offices, BEA, BIE, ITA, MBDA, USTS, Offices of Federal Cochairmen, RAPCs, and ARC: Office Financial Operations, OS, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230 and Office of Information Management, Computer Services Division, use same address.

b. For MARAD: Division of Accounts, Maritime Administration, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

c. FOR NTIS: Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

d. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For Census: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504

g. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C 20230.

Categories of individuals covered by the system: Individuals paying for goods or services, reimbursing overpayments, or otherwise delivering cash to the Department.

Categories of records in the system: Individual's name, the goods or service purchased, amount, date, check number, division or office, bank deposit, treasury deposit number.

Authority for maintenance of the system: 31 U.S.C. 66(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Name and/or account or case number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Permanently maintained.

System manager(s) and address: For records at location a.: Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Chief, Accounting Division, National Technical Information Service, Room 208, Yorktowne Building, Springfield, Virginia 22161.

For records at location d.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f.: Director of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

For records at location g.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location c., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Room 1014, Sills Building, Springfield, Virginia 22161.

For records at location d., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, date of receipt, and check number or case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/DEPT-18.

System name: Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT-18.

System location: a. For all Departmental employees: Departmental Office of Personnel, Room 5001, U.S. Department of Commerce, Washington, D.C. 20230 (for automated records and for selected records relating to Senior Executive Service and Departmental Honor Awards). b. For employees of Departmental Offices, Offices of Federal Cochairmen, RAPCs, ARC, BEA, BIE, NTIA, NTIS, MBDA, and USTS: Departmental Office of Personnel Operations, Room 5008, U.S. Department of Commerce, Washington, D.C. 20230;

c. For employees of CENSUS: Office of Personnel, Bureau of Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

d. For employees of ITA: Office of Personnel, International Trade Administration, Room 3512, U.S. Department of Commerce, Washington, D.C. 20230;

e. For employees of MARAD: Office of Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

f. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20234;

g. For employees of NOAA: Office of Personnel, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852;

h. For employees of PAT-TM: Office of Personnel, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

i. For employees of EDA: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

j. For any Department employee: The immediate office of an employee's supervisor(s), for records which have been disclosed to someone else.

Categories of individuals covered by the system: Current and former employees.

Categories of records in the system: All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by the Office of Personnel Management, Merit Systems Protection Board, or Equal Employment Opportunity Commission. The records of this system may include, but are not limited to: Employee Development; Incentive Awards; Employee Relations; Grievance Records; Medical; Career Management Program; Ship Personnel; Employee Overseas Assignments; Minority Group Statistics Program; Work Performance and Appraisal Records; including supervisory records which have been disclosed; Re-Employment and Priority Placement Programs; Executive Assignments and Merit Pay Actions; Merit Assignment Programs; Within-Grade Denials (Reconsideration File); and, Automated Employee Information System.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 5 U.S.C. 4101 et seq.; 5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp. p218, E.O. 10987, 3 CFR 1959-1963 Comp. p519, agency employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management; and Federal Personnel Manual and related directives of the agencies cited above.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information concerning current or former employees may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to officials of the Office of Personnel Management, Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

d. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. To provide information to officials or labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

f. See routine uses paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name and/or social security number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to Unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Director, Office of Personnel, Room 5001, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location b.: Director, Office of Personnel Operations, Room 5008, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location c.: Chief of Personnel, Bureau of the Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

For records at location d.: Director, Office of Personnel, International Trade Administration, U.S. Department of Commerce, Room 3512, Washington, D.C. 20230;

For records at location e.: Director, Office of MARAD Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location f.: Chief, Personnel Division, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20234;

For records at location g.: Director, Office of Personnel, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852;

For records at location h.: Personnel Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

For records at location i.: Personnel Management Division, Economic Development Administration, Room 7089, Washington, D.C. 20230; and

For records at location j.: employee's supervisor(s).

Notification procedure: For BEA records at locations a. and b., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at locations a. and b., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For NTIA records at locations a. and b., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For NTIS records at locations a. and b., information may be obtained from: Privacy Officer, NTIS, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at locations a. and b., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U. S. Department of Commerce, Washington, D.C. 20230;

For USTS records at locations a. and b., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For all other records at locations a. and b., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location d., information may be obtained from: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D. C. 20230;

For records at location e., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location f., information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location g., information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location h., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For records at location i., information may be obtained from: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

For records at location j., information may be obtained from: Privacy office for employee's unit.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; others involved in references of the individual; physicians; employee's supervisor; for grievance records information is also provided by the testimony of witnesses, by agency officials, and from related correspondence from organizations or persons.

COMMERCE/DEPT-19

System name: Department Mailing Lists—COMMERCE/DEPT-19.

System location: a. Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

b. Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

c. Office of General Services, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

d. For carpool locator records of NBS: Facilities Services Division, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

e. Office of Administrative Services, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications.

At location b.: Subscribers to MBDA publications and/or representatives of the media who receive MBDA material at their home addresses.

At location c.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list.

At location d.: Individuals who have voluntarily submitted an application to be included in the carpool locator system and to be listed as a potential carpool member.

At location e.: Individuals who communicated with the 1978 White House Conference on Balanced National Growth and Economic Development, including individuals who received Conference literature.

Categories of records in the system: At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, zip code. 2. Subscriber lists include name and home address.

At location b.: Name and home address.

At location c.: Name and home address.

At location d.: Carpool locator records include applicant's name, home address, zip code, work week, work hours, work location, office telephone number, willingness to participate as a driver or rider in a carpool.

At location e.: Name, home and/or business address; home and/or business telephone number; place of employment or interest group; type of organization; nature of relationship to the Conference (participant, guest, observer, etc.); source of name; and subject area(s) of interest.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512, 2205, 2208, and 44 U.S.C. 3101.

For records at location e.: Public Works and Economic Development Act of 1976, P.L. 94-487, Title II, 90 Stat. 2339, 42 U.S.C. 3121 note.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For all locations, see general routine uses of Prefatory Statement.

For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed.

For records at location d.: Carpool locator records are disseminated to individuals working at or near the NBS site, who request information on carpools. (Home addresses are withheld.)

For records at location e.: Information may be provided Federal, State, local or international agencies in response to a written request indicating likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders, computer tape, mailing labels.

For records at location e.: Index cards and computer print-outs.

Retrievability: Alphabetically by name, and for records at location a., by zip code.

For records at location e.: Alphabetically, by name, by geographical area, (state, city), by type of organization with which affiliated if any, by nature of relationship to the Conference, by source of name, and by subject area(s) of interest.

Safeguards: Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with each unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Chief of Information, Office of Public Affairs, MBDA, Washington, D.C. 20230.

For records at location c.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location d.: Deputy Director for Information Systems, National Bureau of Standards, Administration Building, Room A1105, Washington, D.C. 20234.

For records at location e.: Director, Office of Administrative Services, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Notification procedure: For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

For records at location b.: Privacy Officer, Office of Chief Counsel, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c.: Information may be obtained from: Assistant Commissioner for Administration, U. S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location d.: Information may be obtained from system manager at the same address shown above. Requests should provide applicant's name and address in accord with the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

For records at location e.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individuals, and those authorized by subject individual.

For records at location e.: Subject individual; those authorized by the individual to furnish information; public reference sources (press articles, Who's Who, etc.); government, private and public interest organizations.

COMMERCE/DEPT-20.

System name: Biographical Files—COMMERCE/DEPT-20.

System location: a. For Secretarial Officers, senior-level officials, and employees of the Office of the Secretary: Office of Public Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

b. For Secretarial Officers and senior-level officials included in Biographical Resumes of Key Officials: Offices of the Director of Personnel, and Assistant Secretary for Administration; all Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

c. For employees of CENSUS: Public Information Office, Federal Building #3, Bureau of the Census, Washington, D.C. 20230.

d. For employees of ITA: Office of Public Affairs, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

e. For employees of EDA: Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

f. For employees of MARAD: Office of Public Affairs, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

g. For members of the Advisory Board to the U.S. Merchant Marine Academy: Office of Assistant Secretary for Maritime Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

h. For employees of NBS: Public Information Division, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

i. For employees of NBS' Boulder Laboratories: Program Information Office, National Bureau of Standards, Radio Building, Boulder, Colorado 80303.

j. For members of the National Advisory Committee on Oceans and Atmosphere: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, N.W. (PG #1, Room 434), Washington, D.C. 20235.

k. For employees of NOAA: NOAA headquarters locations: Office of Public Affairs, National Oceanic and Atmospheric Administration, 11420 Rockville Pike, Rockville, Maryland 20852, and/or NOAA field installations, the principal addresses of which are:

NOAA's National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20850.

NOAA's National Weather Service, 8060 13th Street, Silver Spring, Maryland 20910.

NOAA's Office of Coastal Zone Management, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

NOAA's Office of Sea Grant, 6010 Executive Boulevard, Rockville, Maryland 20852.

NOAA's Environmental Research Laboratories, 3100 Marine Street, RB3, Boulder, Colorado 80302, and Environmental Research Laboratories at 9 locations in the United States.

NOAA's National Marine Fisheries Service, 3300 Whitehaven Street, Washington, D.C. 20235.

A complete list of all field installations is available upon request from individual designated in Notification section below.

l. For employees of MBDA: Public Affairs Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230.

m. For employees of PAT-TM: Office of Information Services, Patent and Trademark Office, Washington, D.C. 20231.

n. For employees of the Office of Science and Technology and organizational components reporting to the Assistant Secretary; for members of the Commerce Technical Advisory Board and its subcommittees; and for participants in the Commerce Science and Technology Fellowship Program: Office of Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230.

o. For employees of NTIA's Institute for Telecommunication Sciences: Institute for Telecommunication Sciences, NTIA, Boulder, Colorado 80302. For other NTIA employees: Office of the Director of Congressional and Public Affairs, NTIA, 1800 G Street, N.W., Washington, D.C. 20504.

The information in this system may be duplicated in other Privacy Act systems of the Commerce Department, in the systems maintained by the Office of Personnel Management, or in the immediate office of the individual to whom the biographical record pertains. For assistance in this regard, contact the Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present and former Department personnel, and members of advisory committees.

Categories of records in the system: Biographical information which typically includes date and place of birth; education; military service; present position; employment history; field of research; publications; inventions and patents; awards and honors; memberships and affiliations; present and past residences; telephone number; names, ages, and addresses of family members; hobbies and outside interests; and photograph of individual.

Authority for maintenance of the system: 5 U.S.C. 301, 15 U.S.C. 1512, 44 U.S.C. 3101 and Reorganization Plan No. 5 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Distributed to the press, other government agencies, and the general public for use in connection with written articles, oral interviews, speaking engagements, retirement and obituary notices, and other purposes of public information. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or notebooks.

Retrievability: By name alphabetically or by position or work unit.

Safeguards: Records are located in locked metal file cabinets or locked rooms during non-business hours.

Retention and disposal: Records retention and disposal is in accord with each operating unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Information Assistant, Office of Communications.

For records at location b.: Director of Personnel, U.S. Department of Commerce.

For records at location c.: Director, Bureau of the Census.

For records at location d.: Director, Office of Public Affairs, International Trade Administration.

For records at location e.: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location f.: Public Affairs Officer, Maritime Administration.

For records at location g.: Special Assistant to the Assistant Secretary for Maritime Affairs, U.S. Department of Commerce.

For records at location h.: Chief, Public Information Division, National Bureau of Standards.

For records at location i.: Chief, Program Information Office, National Bureau of Standards.

For records at location j.: Executive Director, National Advisory Committee on Oceans and Atmosphere.

For records at location k.: Director, Office of Public Affairs, National Oceanic and Atmospheric Administration.

For records at location l.: Information Officer, Minority Business Development Agency.

For records at location m.: Director, Office of Information Services, Patent and Trademark Office.

For records at location n.: Special Assistant to the Assistant Secretary for Science and Technology, Office of Science and Technology, U.S. Department of Commerce.

For records at location o.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration.

For each system manager, use same address as shown in applicable System Location section above.

Notification procedure: For records at locations a., b., j., and for Office of the Secretary records at location n.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at the locations listed below, information may be obtained from the individual designated. Use same address for each as shown in appropriate System Location section above.

c.: Associate Director for Administration, Bureau of the Census.

d.: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D. C. 20230.

e.: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

f. and g.: Secretary of the Maritime Administration.

h. and i., and NBS records at location n.: Deputy Director for Information Systems, National Bureau of Standards.

k.: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration.

l.: Privacy Officer, Office of Chief Counsel, Minority Business Development Agency.

m. and PAT-TM records at location n.: Assistant Commissioner for Administration, Patent and Trademark Office.

o.: Privacy Officer, National Telecommunications and Information Administration.

For NTIS records at location n.: Assistant Director for Administration, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

BEA records are included in locations a. and b. above.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: All locations, subject individuals. Also, for records at locations b. and f., the individual's Official Personnel File; for records at location k., supervisors of subject individuals; for records at locations j., and k., personnel offices; and for records at locations h., i., and n., other sources such as news releases, articles and publications relating to the subject individual.

COMMERCE/CENSUS-1.

System name: Agriculture Census Records for 1969 (partial), 1974 and 1978—COMMERCE/CENSUS-1.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103.

Categories of individuals covered by the system: Farm operators and family members.

Categories of records in the system: Age, race, residence, ethnic groups, off-farm employment, income.

Authority for maintenance of the system: 13 U.S.C. 142.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These data maintained by the Bureau of the Census are used solely for statistical purposes and are confidential under 13 U.S.C. 8 and 9. Publications of the Bureau do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, microform, punch card, paper hard copy.

Retrievability: Retrieved by unique serial identification numbers internal to the Bureau.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, governing the confidentiality of the data.

Retention and disposal: Retention and disposal practices are in accordance with approved General Services Administration schedules. Generally, records are retained for periods of 5 to 11 years, unless a longer period is necessary for statistical purposes or for permanent archival retention.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552 a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance with agency rules published in 15 CFR Part 4b.

COMMERCE/CENSUS-2.

System name: Employee Productivity Measurement Records—COMMERCE/CENSUS-2.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103 and Bureau of the Census, Personal Census Service Branch, Pittsburg, Kansas 66762. Also at the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 S. Tryon Street, Charlotte, North Carolina 28202; 55 E. Jackson Boulevard, Suite 1304, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard, P.O. Box 25207, Denver, Colorado 80225; 231 W. Lafayette, RM 565, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; 1700 Westlake Avenue, Seattle, Washington, 98109. Also at the following processing offices: Bureau of the Census, Laguna Niguel Processing Office, Chet Holifield Building, 24000 Avila Road, Laguna Niguel, California 92677 and Bureau of the Census, New Orleans Processing Office, Michoud Assembly Facility, Building 350-2W, 13800 Old Gentilly Road, New Orleans, Louisiana 70129.

Categories of individuals covered by the system: Census employees.

Categories of records in the system: Name, employee number, rate of pay, supervisor, organization unit, location, type of work performed, time work accomplished, work units processed, production standard and percent performance, number and types of errors and error rates, work units accepted and rejected, and similar information on employee and work group productivity.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraph in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper copy, microform.

Retrievability: Retrieved by name or employee number and/or program or interviewer code.

Safeguards: Tape under ADP security, sensitive material is held in locked file cabinets.

Retention and disposal: Records retained for 5 years.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Notification procedure: Information may be obtained from: same address as stated in the system manager section above. Requester should provide name, employee number and/or program or interviewer code, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, timekeepers, supervisors, managers, and those authorized by the individuals to furnish information.

COMMERCE/CENSUS-3.

System name: Individual and Household Statistical Surveys and Special Studies Records—COMMERCE/CENSUS-3.

Security classification: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103 and National Archives and Records Service. Washington National Records Center, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals in families and households designated for statistical sample surveys and special studies.

Categories of records in the system: Age, sex, race, education, marital status, residence, family income, birth expectations, employment, ethnic origin, relationship to head of household, mobility status, and similar social, economic, and demographic characteristics of individuals.

Authority for maintenance of the system: 12 U.S.C. 17012-1, 2(f) and 2(g); 13 U.S.C. 6, 8, 9, 41, 89, 101, 141, 181, 195, and 301; 15 U.S.C. 772; 16 U.S.C. 742d(4) and (5); 23 U.S.C. 134, 307, and 307a; 29 U.S.C. 1 and 9; 31 U.S.C. 686; 42 U.S.C. 242c, 242k, 282(5), 902, 1395 11(a), 1862, 2825, and 3771;and 49 U.S.C. 1605.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Identifiable data from records not protected by 13 U.S.C. 9, received from State and local units of government responsible for administering Comprehensive Employment and Training Act funds and from individual respondents pursuant to the Longitudinal Manpower Survey authorized by 29 U.S.C. 881(c) and 883, may be furnished to the Social Security Administration solely for the purpose of obtaining further identifiable data for statistical use in the Survey. The data provided are: social security number, name, month and year of birth, race and sex. No determinations affecting individual respondents are made as a result of this routine use. (2) Publications resulting from the use of the records in this system do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy, punch card, magnetic tape, and microform.

Retrievability: Unique serial identification numbers internal to the Bureau of the Census.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and disposal: Retention and disposal practices are in accordance with approved GSA schedules. Generally, records are retained for periods of 5 to 7 years, unless a longer period is necessary for statistical purposes or for permanent archival retention.

System manager(s) and address: Director, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to agency rules published in the rules section of this Federal Register.

COMMERCE/CENSUS-4.

System name: Minority-Owned Business Enterprises Survey Records—COMMERCE/CENSUS-4.

System location: National Archives and Records Service, Washington National Records Center, Washington, D.C. 20409 and General Services Administration, Federal Records Center, Suitland, Maryland 20233 and Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Categories of individuals covered by the system: Female and minority persons who are sole proprietors, partners, or shareholders of small business corporations.

Categories of records in the system: Name, social security number, sex, race, whether Spanish surname, receipts of business, geographic area, legal form of business. Name and social security number are deleted from partners and stockholders once other data are coded. Data include number, geographic dispersion, and economic characteristics of minority business enterprises.

Authority for maintenance of the system: 13 U.S.C. 131 and 132.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These data maintained by the Bureau of the Census are used solely for statistical purposes. Publications do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy and magnetic tape.

Retrievability: Filed by name and social security number.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and disposal: Records are retained in accordance with the unit's Records Control Schedule.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to agency rules published in the rules section of this Federal Register.

COMMERCE/CENSUS-5.

System name: Population and Housing Census Records of the 1960 and subsequent Censuses—COMMERCE/CENSUS-5.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census 1201 East 10th Street, Jeffersonville, Indiana 47103.

Categories of individuals covered by the system: All persons counted during the Censuses of Population and Housing taken in 1960 and later.

Categories of records in the system: Records contain population information on age; sex; race or color; marital status and family relationships; citizenship and ethnic origin; education and veteran status, income, occupation and employment; and housing information on occupancy, vacancy, utilization, plumbing, structural and financial characteristics and equipment, fuels and appliances, and similar social, economic, and demographic characteristics.

Authority for maintenance of the system: 13 U.S.C. 141.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained and used solely for statistical purposes and are confidential under 13 U.S.C 8 and 9. Publications do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microform, paper copy, magnetic tape, punch cards.

Retrievability: Information is retrieved by the use of unique serial identification numbers internal to the Bureau of the Census.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and disposal: Records are retained in accordance with the unit's Records Control Schedule.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to agency rules published in the rules section of this Federal Register.

COMMERCE/CENSUS-6.

System name: Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses—COMMERCE/CENSUS-6.

System location: Bureau of the Census, Personal Census Services Branch, Pittsburg, Kansas 66762.

Categories of individuals covered by the system: All persons ever counted during decennial censuses of population (1900-1970).

Categories of records in the system: Name, address, relationship to head of household, date of birth, marital status, occupation and education data, race of household members, and other similar characteristics as reported in each census.

Authority for maintenance of the system: 13 U.S.C. 8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records may be considered as statistical records pursuant to 5 U.S.C. 552(a), as they were originally collected for statistical purposes, and are now maintained to perform searches at the request of subject individual under procedures published in the 15 CFR Part 60 and in accordance with 13 U.S.C. 8 to provide proof of age, citizenship, proof of relationship, and limited use for genealogical purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microform.

Retrievability: Indexed by numerical coding of surname on SOUNDEX system and by township, county, and state.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(4) this record is exempt from the notification access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as data are maintained by the Bureau of the Census as statistical records as required by Title 13, U.S. Code and are not used by the Bureau in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance with the Department's rules which appear in 15 CFR Part 4b.

COMMERCE/CENSUS-7.

System name: Special Censuses of Population Conducted for State and Local Government—COMMERCE/CENSUS-7.

System location: Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103.

Categories of individuals covered by the system: Residents counted in the area requesting a census.

Categories of records in the system: Address, name, age, race, sex, relationship to head of household, and occasionally other related social, economic, and demographic characteristics.

Authority for maintenance of the system: 13 U.S.C. 8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These data maintained by the Bureau of the Census are used solely for statistical purposes. Publications do not contain data that could identify any particular establishment or individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper copy.

Retrievability: Records are retrieved by name and address.

Safeguards: All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and disposal: Tapes retained for 90 days after processing, then erased, paper copy is retained for 2 years, then destroyed.

System manager(s) and address: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C., 552a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to agency rules published in the rules section of this Federal Register.

COMMERCE/ITA-1.

System name: Individuals Identified in Export Transactions—COMMERCE/ITA-1.

System location: Office of Export Administration, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: a. Individuals involved in export transactions. Information is maintained on domestic and foreign companies and business officials, and includes U.S. citizens involved with or working for firms abroad. b. Individuals identified in an export administration compliance proceeding or investigation. Individuals alleged to have violated the Export Administration regulations; established violators of the regulations; certain other individuals identified by the FBI or other investigating agency or individual in the investigative process such as those involved in organized crime; and individuals who have received warning letters.

Categories of records in the system: Reports and cables from U.S. foreign service posts. Reports from F.B.I., other law enforcement or investigative agencies, investigators, or informants; investigative and intelligence data; documented violations; warning letters. Includes any information on alleged or proven violators of the Export Administration Act.

Authority for maintenance of the system: Export Administration Act of 1979 (Public Law 96-72, 50 U.S.C. App. et seq.). 5 U.S.C. 301, 28 U.S.C. 533-535, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Information filed by case or subject file. All names are cross-referenced by name card file.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained for a reasonable period of time. Disposition is recorded.

System manager(s) and address: Director, Compliance Division, Office of Export Administration ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, address, and case or subject, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Individual exporters, those authorized by the individual exporters to furnish information, trade sources, investi-

gative agencies, intelligence, investigative and other personnel of the Office of Export Administration, informants, CIA, FBI, Justice Department, Defense Department, Energy Department, and State Department.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b),(c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(1) and (k)(2) on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meets the criteria stated in 5 U.S.C. 552a (k)(1) and (k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Section 12(c) of the Export Administration Act of 1979 also protects certain of this information and material related to export licenses from disclosure.

COMMERCE/ITA-2.

System name: Individuals Involved in International Business Trade Complaints—COMMERCE/ITA-2.

System location: Office of Export Marketing Assistance, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals filing trade complaints (business disputes) against foreign firms, or against whom foreign firms file complaints through U.S. Embassies.

Categories of records in the system: Complaint and supporting documentation, record of the handling and disposition of the complaint, and third party information (bank references, information obtained from other parties to the transaction, and commercial contacts of the individual).

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Also foreign governments obtain information on the disputants in order to check reliability of the firms involved, and foreign firms involved in the dispute obtain information. This information is supplied to the foreign governments and foreign firms through the Department of State. The Department of State also uses information to check the credibility of the foreign firms involved in a dispute. Information is released to other executive branch agencies, e.g., SBA, USDA, when a party to the dispute falls within their area of jurisdiction in an attempt to solve the dispute.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Name of American party to the dispute.

Safeguards: Metal cabinets with bar and combination lock.

Retention and disposal: Permanent.

System manager(s) and address: Director, Office of Export Marketing Assistance, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and name of American party to the dispute pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, the complainant, banks, commercial contracts, and other parties to the transaction.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), material which is classified is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to prevent disclosures detrimental to national defense or foreign policy.

COMMERCE/ITA-3.

System name: Mission Directors/Seminar Chairmen/Industry Technical Representatives—COMMERCE/ITA-3.

System location: Office of Export Promotion, ITA, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who are Directors of U.S. Trade Missions, Chairmen of U.S. Government Seminar Missions, and Technical Representatives of Catalog Exhibits sponsored by the Department.

Categories of records in the system: Home address, date and place of birth, photographs, brief career history, citizenship, and passport numbers.

Authority for maintenance of the system: Delegation of Authority, dated June 25, 1962 from United States Information Agency under Section 5 (e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By promotion theme of trade mission, location of trade mission and individual's name.

Safeguards: Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: File is retained for three years and then destroyed.

System manager(s) and address: Director, Special Promotions Division, Office of Export Promotion, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and location of trade mission and individual's name pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and individual's company, and those authorized by the individual to furnish information.

COMMERCE/ITA-4.

System name: Membership Information: District Export Councils—COMMERCE/ITA-4.

System location: U.S. Commercial Service, ITA, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present, former and potential members of the District Export Councils.

Categories of records in the system: Address, date and place of birth, brief career history, education, special qualifications for appointment, and record of appointment. Miscellaneous material such as photographs, press releases and resumes are maintained on some members.

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by council and name of individual.

Safeguards: Records are located in lockable metal file cabinets or in metal cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained for active councils. Retired when councils terminate or when individuals leave councils.

System manager(s) and address: Deputy Assistant Secretary for the U.S. Commercial Service, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and council pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, individual's company, and persons nominating the individual for council membership.

COMMERCE/ITA-5.

System name: National Defense Executive Reserve Personnel Folders—COMMERCE/ITA-5.

System location: Office of Industrial Mobilization and Office of Export Administration, ITA, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals from the business community selected to assume responsibility for industrial production, construction, and distribution in the event of national emergencies.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous government experience; previous residences; current and recent past employment and approximate earnings; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; secrecy agreement; sex; date and place of birth; military and civil defense obligations; education; and professional and other memberships.

Authority for maintenance of the system: E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Transferring data to the Federal Emergency Management Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms, index cards, and magnetic tape.

Retrievability: Paper cards and index cards are filed alphabetically by individual's name. Data on magnetic tape is retrieved by serial number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained until two years after individual's resignation or death and then discarded.

System manager(s) and address: Director, Office of Industrial Mobilization, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Emergency Planning Officer, Office of Export Administration, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/ITA-6.

System name: Foreign Service Officer Evaluations—COMMERCE/ITA-6.

System location: Foreign Commercial Service, ITA, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Members of the Foreign Service of the United States serving abroad or on detail to the Department of Commerce in economic/commercial positions.

Categories of records in the system: (1) End User and Field Observation Reports; (2) memorandums, cables, letters and other documents used in the preparation of End User and Field Observation Reports, and of Foreign Service Officer Evaluation Reports; and (3) other documents relating to officer performance.

Authority for maintenance of the system: Foreign Service Act of 1946, as amended; 22 U.S.C. 801 et seq., 986; and 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed, as a routine use, to the Department of State in connection with the evaluation of the performance of Foreign Service Officers. (See also general routine use paragraphs.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual FSO's name.

Safeguards: Records are located in lockable metal file cabinets in premises with access limited to those whose official duties require access.

Retention and disposal: End User Reports and Field Observation Reports are transmitted to the Department of State by July 15 of each year. Other documents relating to officer performance are retained until the retirement, resignation or death of the individual and then retired or destroyed, as appropriate.

System manager(s) and address: Director General of the Foreign Commercial Service, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Privacy Act Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide his name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and supervisors of those individuals.

COMMERCE/IATC-1.

System name: Auditor Trainee Registrants—COMMERCE/IATC-1.

System location: Office of Administrative Services, Records Management Division, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who had registered as an enrollee at the Interagency Auditor Training Center.

Categories of records in the system: Name; date of birth; social security number; phone; address; occupation; position; grade level; and education.

Authority for maintenance of the system: Government Employees Training Act of 1958; Executive Order 11348, April 20, 1976; and Intergovernmental Cooperation Act of 1968 (P.L. 90-557).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by name and year of attendance.

Safeguards: Records are located in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records will be disposed of in accordance with the Office's Records Control Schedule.

System manager(s) and address: Director, Office of Administrative Services, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: address same as above. Requester should provide name and dates of attendance pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: Director, Office of Organization and Management Systems, OS, Department of Commerce, Washington, D.C. 20230.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/MA-1.

System name: Applications to U.S. Merchant Marine Academy (USMMA)—COMMERCE/MA-1.

System location: Office of Admissions, U.S. Merchant Marine Academy, Kings Point, Long Island, N.Y. 11204.

Categories of individuals covered by the system: Applicants for admission to the Academy.

Categories of records in the system: Contains name; address; name of nominating Congressman and his congressional district; social security number; citizenship; color of hair and eyes; sex; marital status; scholastic background; names of relatives who attended the Academy; high school record; personality record (compiled by high school authorities); seaman's experience; military service data; and biographical sketch. (Form: KP 2-65).

Authority for maintenance of the system: Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b)(1); and, E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, the Member of Congress or other nominating authority is advised of the outcome of an individual's candidacy and a brief statement of the basis of that outcome.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed alphabetically by last name.

Safeguards: Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: If admitted, the application becomes part of the Midshipman's Personnel Record for permanent retention. The file is transferred to the Federal Records Center after 5 years. If not admitted, it is retained for one year and destroyed.

System manager(s) and address: Director, Office of Admissions, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of applicant pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address:

Record source categories: Subject individual, the individual's high school officials, references, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine applicant's suitability for civilan employment and military service.

COMMERCE/MA-2.

System name: Cadet Files, State Maritime Academies—COMMERCE/MA-2.

System location: Office of Maritime Labor and Training, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and former cadets enrolled in the State Maritime Academies.

Categories of records in the system: Name; service number; date of change in pay; reenrollment or reinstatement; disenrollment; and date of graduation. (Forms: MA-1005 and MA-850).

Authority for maintenance of the system: 46 U.S.C 1383,1387.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained until one year after graduation and then destroyed.

System manager(s) and address: Director, Office of Maritime Labor and Training, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C., 20230. Requester should provide Cadet's name and State School attended, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject student, State Merchant Marine Academies, and those authorized by the student to furnish information.

COMMERCE/MA-3.

System name: Citizenship Statements and Affidavits—COMMERCE/MA-3.

System location: Division of Reserve Fleet, Room 6628, U.S. Department of Commerce, Washington, D.C. 20230, for bidders on surplus vessels; and Office of the General Counsel, MA, Room 4898, U.S. Department of Commerce, Washington, D.C. 20230, for all other programs.

Categories of individuals covered by the system: Officers and shareholders of non-personal applicants and individual applicants.

Categories of records in the system: Name; date and place of birth; nationality; and nationalization data.

Authority for maintenance of the system: Merchant Marine Act of 1936; 46 U.S.C. 11,802, 803, 1114.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by applicant's name; name of individual or vessel name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are transferred to the Federal Records Center after 5 years where they are retained indefinitely.

System manager(s) and address: Chief, Divison of Reserve Fleet and Office of the General Counsel, addresses are same as above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of applicant, or name of individual, or name of vessel, the program under which filed and the date, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicant and individual and those authorized by the foregoing to furnish information.

COMMERCE/MA-4.

System name: General Agent's Protection and Indemnity and Second Seaman's Insurance: WSA and NSA—COMMERCE/MA-4.

System location: Office of Marine Insurance, Room 3622, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals (e.g., seamen, passengers, stevedores) filing claims against general agents for death, disability, loss of personal effects, detention and repatriation and property damage.

Categories of records in the system: Claimant's name; address; mariner's document number; sea service record; disciplinary records; selective service classification; names of parents; marriage and divorce data; social security number; alien registration and citizenship data; medical information; next-of-kin; wages per month; birth date; witness statements; investigator's report; names of counsel; and executors and administrators of estates. (Forms: MA-574, MA-570, MA-269, MA-26 and 27).

Authority for maintenance of the system: Merchant Marine Act of 1936; 32A CFR 1851; 42 CFR 32.14 5 U.S.C. 301, 302; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To evaluate filed claims, negotiate settlements, award money, contest or to initiate lawsuits; and to arrange for proper medical treatment by establishing seaman's eligibility for acceptance under regulations of Public Health Service, U.S. Department of Health, Education and Welfare, or other appropriate medical facilities. Users are the Office of Marine Insurance; adjustors and attorneys acting for the Government; Office of Workers' Compensation Programs, U.S. Department of Labor; the Marine Index Bureau, 17 Battery Place, New York, N.Y. (a contract service centralizing data on seamen claims); and hospitals of the Public Health Service, U.S. Department of Health, Education and Welfare, or, when appropriate, other medical facilities providing treatment to the individual. Also see the routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by seaman's name and vessel's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are transferred to the Federal Records Center after one year where they are retained indefinitely.

System manager(s) and address: Director, Office of Marine Insurance, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide seaman's name, vessel name, and date of incident, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual; the individual's attorney; adjustors, investigators; attorneys; Office of Marine Insurance; witness; the Marine Index Bureau; and, those authorized by the individual to furnish information.

COMMERCE/MA-5.

System name: Marine Training School Registrants—COMMERCE/MA-5.

System location: MA regional offices: Eastern-26 Federal Plaza, New York, N.Y. 10007; Central-No.2 Canal Street, New Orleans, La. 70130; Western-450 Golden Gate Ave., San Francisco, California 94102; and, Great Lakes-Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

Categories of individuals covered by the system: Each seafarer enrolling in an agency training course.

Categories of records in the system: Name; address; position title; owner's document number; social security number; certificate number; sponsoring organization; course completed; date of course completion; course grade; date of birth; and telephone number. (Forms: MA-1005 and 1006A).

Authority for maintenance of the system: Merchant Marine Act of 1936; 46 U.S.C. 1126(b)(5)(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, the information is used by the U.S. Coast Guard for verification of attendance and performance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by student's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose duties require access.

Retention and disposal: The records are transferred to the Federal Records Center one year after graduation or termination and disposed of 60 years after date of enrollment.

System manager(s) and address: Training Facility Registrar where the training was taken, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, date and facility attended, course description, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The student, the training instructors, and those authorized by the individual to furnish information.

Commerce/MA-6.

System name: Waivers of Liability to Board Reserve Fleet Vessels and Other Craft Located at U.S. Merchant Marine Academy—COMMERCE/MA-6.

System location: Beaumont Reserve Fleet, Beaumont, Texas; James River Reserve Fleet, Fort Eustis, Virginia; and Suisun Bay Reserve Fleet, Benicia, California; U.S. Merchant Marine Academy, Kings Point, Long Island, New York 11024.

Categories of individuals covered by the system: All individuals boarding Reserve Fleet vessels.

Categories of records in the system: Name, affiliation, date, and signature. (Form: MA-118).

Authority for maintenance of the system: 50 U.S.C. 1744-45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are maintained for three years and then destroyed.

System manager(s) and address: The chief of the particular Regional Office: Eastern-26 Federal Plaza, New York, New York 10278; Central-No.2 Canal Street, New Orleans, Louisiana 70130; Western-450 Golden Gate Avenue, San Francisco, California 94102; and U.S. Merchant Marine Academy, Kings Point, Long Island, New York 11024.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide the name of the visitor, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/MA-7.

System name: National Defense Executive Reserve—COMMERCE/MA-7.

System location: Division of National Security Plans, MA, Room 3716, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Nominees and members of the National Defense Executive Reserve.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous Government experience; previous residences; current and recent employment; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; appointment affidavits; secrecy agreement; sex; date and place of birth; education; and professional and other memberships.

Authority for maintenance of the system: 50 U.S.C. 2153; and E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Transferring data to the Federal Preparedness Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until one year after individual's resignation or until death and then discarded.

System manager(s) and address: Chief, Division of National Security Plans, MA, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual, those authorized by the individual to furnish information, the investigator performing personal and security investigation and sources contacted by the investigator.

COMMERCE/MA-8.

System name: Non-Attorney Practitioner Applications and "Section 807 Reports"—COMMERCE/MA-8.

System location: Office of the Secretary, Maritime Administration, Room 3099B, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Those representing others in agency proceedings.

Categories of records in the system: Name; address; compensation paid; expenses incurred; exact nature of the representation (Forms: MA-807-1, 807-2). Education; experience; employment history for last five years; date and place of birth; citizenship; past Federal service; involvement in litigation alleging fraud; and Communist, Fascist, etc. affiliations. (Form: MA-327).

Authority for maintenance of the system: Merchant Marine Act, 1936; 46 U.S.C. 1114(b) and 1225.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name of practitioner and by name of principal.

Safeguards: Records are located in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with general retention schedule.

System manager(s) and address: Secretary, Maritime Administration, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, see above address. Requester should provide name of practitioner, pursuant to the inquiry provision of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the individual's principal, and those authorized by the individual to furnish information.

COMMERCE/MA-9.

System name: Seamen's Awards for Service, Valor, etc.—COMMERCE/MA-9.

System location: Office of Maritime Labor and Training, Room 3069A, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Seamen given awards for service, valor, etc.

Categories of records in the system: Name; address; mariner's document number; social security number; names of ships and dates of service.

Authority for maintenance of the system: Merchant Marine Medals Act; 46 U.S.C. 249.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in paper copy in file folders and on magnetic tape.

Retrievability: Files are maintained alphabetically by name of seaman.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Paper records containing letters of commendation, name of seamen, address, name of vessel and mariner's document number are transferred to the Federal Records Center immediately, where they are retained for 75 years.

System manager(s) and address: Director, Office of Maritime Labor and Training, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide seaman's name and name of vessel, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the individual's coworkers, witnesses to incidents, and those authorized by the individual to furnish information.

COMMERCE/MA-10.

System name: Seamen's Employment Analysis Records—COMMERCE/MA-10.

System location: Division of Computer Operations, MA Room SB-701, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and recent merchant seamen.

Categories of records in the system: Social security number; date of birth; records of U.S. Coast Guard issued documents; voyage employment information (e.g., ship and date signed on); and maritime schools attended.

Authority for maintenance of the system: 46 U.S.C. 1122(a) and 1126.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Filed by social security number.

Safeguards: In addition to technical securities, the records are located in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Basic biographical data are retained indefinitely.

System manager(s) and address: Director, Office of Maritime Labor and Training, Room 4099, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and social security number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Magnetic tape is produced from information received from the U.S. Coast Guard.

COMMERCE/MA-11.

System name: Seamen's Unclaimed Wages (Vietnam Conflict)—COMMERCE/MA-11.

System location: (Manual) Division of Accounts, (machine readable) Division of Data Operations, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Seamen owed wages for service aboard Government vessels operated by general agents.

Categories of records in the system: Name; social security number; employing general agent; and wages due and owing.

Authority for maintenance of the system: 31 U.S.C. 65-67.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to routine uses specified in the Prefatory Statement, these records are disclosured to the U.S. Treasury for the purpose of reporting wages owed.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and on magnetic tape.

Retrievability: Paper records are filed alphabetically by name and by social security number. Magnetic tape is indexed by social security number.

Safeguards: Paper records are secured in lockable metal file cabinets. Magnetic tapes are subject to technical securities. Both forms of records are located in secured areas with access limited to those whose official duties require access.

Retention and disposal: Both forms of records are retained until such time the claim is resolved or the wages are disbursed.

System manager(s) and address: Chief, Division of Accounts, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and social security number, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The general agents.

COMMERCE/MA-12.

System name: Shipyard Labor Supply and Demand Programs—COMMERCE/MA-12.

System location: Division of Data Operations, Maritime Administration, Room SB-087, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Production workers in selected shipyards.

Categories of records in the system: Name; social security number; skill level; seniority; general employment data; age; and shipyards worked.

Authority for maintenance of the system: 46 U.S.C. 1121(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Filed by social security number.

Safeguards: In addition to maintenance of technical securities, the tapes are located in secured areas with access limited to those whose official duties require access.

Retention and disposal: Records are retained for one year and destroyed.

System manager(s) and address: Director, Office of Maritime Manpower, Room 3069A, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, social security number, badge number, and shipyard location, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Employing shipyard.

COMMERCE/MA-13.

System name: USMMA Non-Appropriated Fund Employees—COMMERCE/MA-13.

System location: a. Office of the Commandant of Midshipmen; b. Office of the Director of Athletics; c. Office of the General Manager, Ship's Service; d. Officer's Club; e. Junior Officer's Mess; f. Petty Officers Club; g. Fiscal Control Office; and h. Department of Administrative Services and Procurement, (address for a. through h. above) U.S. Merchant Marine Academy, Kings Point, N.Y. 11024.

Categories of individuals covered by the system: All current and former employees of non-appropriated fund activities since 1970.

Categories of records in the system: Name; telephone number; social security number; address; date of birth; height; weight; birthplace; employment history; special qualifications; education summary; references; personnel actions showing positions held and salary paid; insurance coverage; and letters of commendation or reprimand.

Authority for maintenance of the system: The Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b); and, E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by employee's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: a. Commandant of Midshipmen; USMMA; b. Director of Athletics, USMMA; c. General Manager, Ship's Service; d. President, Officers Club; e. Manager, Junior Officers Mess; f. President, Petty Officers Club; g. Head, Department of Budget and Accounts; and h. Head, Department of Administrative Services and Procurement, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of employee and date of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject employee and those authorized by the employee to furnish information; past employers and references; and the employee's supervisor.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

COMMERCE/MA-14.

System name: USMMA Graduates—COMMERCE/MA-14.

System location: Office of External Affairs, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024.

Categories of individuals covered by the system: All graduates of USMMA, since 1942, and some parents of graduates.

Categories of records in the system: Name; address (home and business); vocation; class year; social security number; employer's name and address; years of maritime service, at sea and ashore; military service; marine licenses; post-graduate education; honors and awards; and union affiliation. Graduate registration for job-placement also contains graduate's preferred salary and job location.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To make employment referrals, to compile statistical reports for Congress and its Members on the professional progress of the graduates, and to mail alumni publications, notices and announcements. The users are the Director, Office of External Affairs and his immediate administrative staff, prospective employers, Congress and its Members, the United States Merchant Marine Academy Alumni Association, Inc., the Kings Point Fund, Inc., and the commercial contractor providing automated services for the Kings Point Fund, Inc. Also see the routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and basic information is on magnetic tape.

Retrievability: Filed alphabetically by name, and by social security number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Records on tape also are subject to physical securities.

Retention and disposal: The records are kept indefinitely.

System manager(s) and address: Director, Office of External Affairs, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: A questionnaire voluntarily returned by graduates every few years; graduates asking to be registered for job-placement; families of graduates; public and private employment of graduates; persons nominating graduates for alumni awards; United States Merchant Marine Academy Alumni Association, Inc.; and published articles naming graduates.

COMMERCE/MA-15.

System name: USMMA Midshipmen Deposit Account Records—COMMERCE/MA-15.

System location: Department of Budgets and Accounts, U.S. Merchant Marine Academy, Kings Point, New York 11024.

Categories of individuals covered by the system: All current midshipmen.

Categories of records in the system: Name, social security number, and all midshipmen activity fee deposits to the Academy.

Authority for maintenance of the system: The Merchant Marine Act of 1936, 46 U.S.C. 216(b)(4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by class year and then alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: Maintained for one year after graduation or separation, and then destroyed.

System manager(s) and address: Assistant Head, Department of Budget and Accounts, see above address.

Notification procedure: Information may be obtained from Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of midshipman and dates of attendance pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject midshipman, those authorized by the midshipman to furnish information, and the Department of Budget and Accounts personnel.

COMMERCE/MA-16.

System name: USMMA Midshipman Grade Transcripts—COMMERCE/MA-16.

System location: U.S. Merchant Marine Academy, Kings Point, N. Y. 11024.

Categories of individuals covered by the system: All present and past midshipmen.

Categories of records in the system: Name; social security number; courses taken, grades received, and cumulative average.

Authority for maintenance of the system: The Merchant Marine Act of 1936; and 46 U.S.C. 216(b)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Sent to other schools or employers when requested by the midshipman. Users are the midshipman, the Academy registrar, other schools and employers. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, paper records in file drawers, microfilm records, and magnetic tape.

Retrievability: Filed alphabetically by midshipman's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Registrar, U.S. Merchant Marine Academy, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of midshipman, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject midshipman, those authorized by the midshipman to furnish information, his instructors, and the Registrar's Staff.

COMMERCE/MA-17.

System name: USMMA Midshipman Medical Files—COMMERCE/MA-17.

System location: Medical Department, U.S. Merchant Marine Academy, Kings Point, New York 11024.

Categories of individuals covered by the system: All midshipmen.

Categories of records in the system: Complete medical history prior to and during enrollment at the Academy.

Authority for maintenance of the system: The Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b); and, E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by midshipman's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: If appointed, record is retained for sixty years; and if not appointed, the record is retained for one year and destroyed.

System manager(s) and address: Medical Officer, U.S. Merchant Marine Academy. See above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of applicant or midshipman and date of application or appointment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicant or midshipman, those authorized by the foregoing to furnish information, individual's physician, and Academy medical officers.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for civilian employment and military service.

COMMERCE/MA-18.

System name: USMMA Midshipman Personnel Records—COMMERCE/MA-18.

System location: Office of the Commandant of Midshipman, U.S. Merchant Marine Academy, Kings Point, New York 11024.

Categories of individuals covered by the system: All current and former midshipmen since inception of the Academy in 1942. Also, all cadet corps personnel from 1938 to 1942.

Categories of records in the system: Nomination to U.S. Merchant Marine Academy; College Board Scores; high school transcript; name; address; social security number; parent's names and address and occupation; relatives who attended USMMA; number of brothers and sisters; medical report; height; weight; color of hair; color of eyes; complexion; commendations; record of disciplinary cases; resignation notice; graduation certification; and report of deficiencies.

Authority for maintenance of the system: The Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b); and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by midshipman's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained on site for 5 years after graduation, then disposed of in accordance with the unit's record control schedule.

System manager(s) and address: Commandant of Midshipmen, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and period of attendance pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject midshipman, faculty administrators and midshipman corps officers who provide copies to the midshipman; former employers, teachers and school authorities, and references; Government or private physicians; U.S. Navy Security Officers; and, those authorized by the midshipman to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C, 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitablilty for civilian employment and military service.

COMMERCE/NBS-1.

System name: NBS Guest Workers—COMMERCE/NBS-1.

System location: Personnel Division, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Guest workers pursuing individual scientific or technical projects.

Categories of records in the system: Agreement between NBS and guest worker; name; citizenship; social security number; supervisor; arrival and departure dates; date of security assurance; conditions; and facilities to be made available.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: The records are disposed 5 years after guest worker terminates.

System manager(s) and address: Personnel Officer, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and operating officials making the facilities available.

COMMERCE/NBS-2.

System name: Inventors of Energy-Related Processes and Devices—COMMERCE/NBS-2.

System location: Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Inventors submitting ideas for evaluation by NBS.

Categories of records in the system: Name, address, and telephone number of the persons submitting ideas or inventions for evaluation.

Authority for maintenance of the system: 88 Stat. 1894.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, the information is used in correspondence with the inventor or person submitting the invention for evaluation and submitter-designated interested third parties, in the evaluation of technical and commercial feasibility, in reports to the Department of Energy, and in development of statistical and analytical data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets; access to all files is restricted to those persons requiring access for evaluation or administrative purposes and who have permission pursuant to a written contract or agreement with NBS, or have written authorization of the legal advisor; an exception to this would be a valid request made under the Freedom of Information Act for information that is not 1) a trade secret or 2) commercial or financial information that is privileged or confidential and therefore falling within the exemption set out in the Act, 5 U.S.C. 552 (b)(4).

Retention and disposal: Currently all records are retained indefinitely.

System manager(s) and address: Chief, Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-3.

System name: Research Associates—COMMERCE/NBS-3.

System location: Office of the Director, Administration Building, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Research Associates.

Categories of records in the system: Personal history statement, conflict of interest statement.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are transferred from an active to terminated section of the files at conclusion of individual's service as a research associate and are retained in accordance with the unit's Records Control Schedule.

System manager(s) and address: Industrial Liaison Officer, Office of the Director, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NBS-4.

System name: Employees External Radiation Exposure Records—COMMERCE/NBS-4.

System location: Health Physics, Occupational Health and Safety Division, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals working with radioactive materials and machines who may be exposed to ionizing radiation.

Categories of records in the system: Name, social security number, date of birth, organizational unit, and amount of radiation received.

Authority for maintenance of the system: 42 U.S.C. 2201 and 68 Stat. 950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, film from badges is sent monthly to the U.S. Army for determination of amount of radiation exposure.

Information involving exposure levels, incidents, and amounts of overexposure is required to be submitted to the Nuclear Regulatory Commission. In the event of serious overexposure, information would be disclosed to the Bethesda (Maryland) Naval Medical Center, employee's family physician, and other appropriate medical authorities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and film.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Currently, records are retained indefinitely.

System manager(s) and address: Chief, Health Physics, Occupational Health and Safety Division, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, social security number, and date of employment, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and U.S. Army.

COMMERCE/NBS-5.

System name: Nuclear Reactor Operator Licensees File—COMMERCE/NBS-5.

System location: Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: NBS employees who are licensed as Nuclear Reactor Operators, those whose applications for licenses are being processed, and those whose licenses have expired.

Categories of records in the system: These records contain information relating to the application for a Nuclear Reactor Operator's license, certification of competency, certification of medical history, results of medical examination and related correspondence, reactor operator examination and examination results, records of training, and license or denial letter.

Authority for maintenance of the system: Sections 107, 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2137, and 2021(i), 15 U.S.C. 272.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be disclosed: To the Nuclear Regulatory Commission for the purpose of conducting audits of the qualifications of reactor operators. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in a locked filing cabinet in a limited access building.

Retention and disposal: All records relating to an individual's license and documentation for license including requalification requirements will be retained as long as is required by the Reactor License and will thereafter either be turned over to the individual concerned or destroyed.

System manager(s) and address: Chief, Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, licensed physician, employees of the Reactor Radiation Division, and those authorized by the subject individual to supply information.

COMMERCE/NBS-6.

System name: Participants in Experiments, Studies, and Surveys—COMMERCE/NBS-6.

System location: Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:

National Measurement Laboratory, Room B364, Materials Bldg., NBS, Washington, D.C. 20234; Room R4011 NBS, Boulder, CO 80302;

National Engineering Laboratory, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Institute for Computer Sciences and Technology, Room A200, Administration Bldg., NBS, Washington, D.C. 20234.

For those portions located with contractors, a complete list of contractors and addresses is available from the Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

Categories of records in the system: Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Authority for maintenance of the system: 15 U.S.C. 271 et. seq.; 29 U.S.C. 651 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in the system may, on occasion, be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routine uses in the Prefatory Statement also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, electromagnetic storage material and microform.

Retrievability: Filed alphabetically by name, or control number or other code identifier.

Safeguards: During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

Retention and disposal: Retained in accord with NBS's records control schedule.

System manager(s) and address: Director, National Engineering Laboratory , Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, approximate date, and title of experiment, study or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-7.

System name: NBS Emergency Locator System—COMMERCE/NBS-7.

System location: National Bureau of Standards, Gaithersburg, Maryland: Physical Security Office, Fire Protection Service Office, Health Physics Unit Office; National Bureau of Standards, Boulder, Colorado: Guard Office, Deputy Security Office; homes of Department of Commerce management officials having overall responsibility for the protection of personnel, buildings, and equipment.

Categories of individuals covered by the system: NBS employees and other individuals utilizing NBS facilities.

Categories of records in the system: Names and home telephone numbers.

Authority for maintenance of the system: 5 U.S.C. 301, 15 U.S.C. 278e, 40 U.S.C. 490(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Home telephone numbers will be used by the Department of Commerce staff to contact NBS employees or individuals using NBS facilities in the case of an emergency (e.g., fire, explosion, power outage, heavy snow). Those contacted will typically be scientists or engineers whose experiments might be affected by such an emergency or other employees who will be required to deal with the emergency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Building and room number; organizational code.

Safeguards: Paper records will be kept in lockable file cabinets with limited access; machine-readable records will have limited access with security key required.

Retention and disposal: Records will be updated every 6 months or more frequently.

System manager(s) and address: Chief, Facilities Services Division, Office of the Director of Administrative and Information Systems, NBS, Washington, D.C. 20234; Staff Services Officer, Boulder Executive Office, Radio Building, Room 4011, NBS, Boulder, Colorado 80303.

Notification procedure: Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and building location or organizational unit.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear at 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NOAA-1.

System name: Applicants for the NOAA Corps—COMMERCE/NOAA-1.

System location: Office of the Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

Categories of individuals covered by the system: Applicants for appointment in the NOAA Corps.

Categories of records in the system: Name, social security number, letters of reference, physical examiniations, college transcripts, statements of prior military sevice, recruiting officer's appraisal, personal resumes, and similar data necessary to be considered for a commission in the NOAA Corps.

Authority for maintenance of the system: 33 U.S.C. 853i; 853j; 853j-l; 853t; 854; 854a-1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also to respond to the applicant, Members of Congress, or others with a valid interest who may inquire as to the status of the application or who may request reconsideration of a rejected application.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in secured room. Access only on the authority of the Director, NOAA Corps or the Chief/Deputy Chief, Commissioned Personnel Division.

Retention and disposal: Destroyed after approximately six months if rejected, unless applicant indicates a desire for reconsideration.

System manager(s) and address: Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, social security number, and date of birth, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, personal references, the NOAA Corps officer who recruited the individual, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine applicant's suitability for employment in the NOAA Corps.

COMMERCE/NOAA-2.

System name: Commissioned Officers Official Travel Orders Folders—COMMERCE/NOAA-2.

System location: Office of the Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

Categories of individuals covered by the system: Commissioned officers of the NOAA Corps (active, retired, and deceased) and former officers separated within previous six months.

Categories of records in the system: Name, grade, social security number, estimated travel cost, dates of transfer, assignment locations, and type of duty.

Authority for maintenance of the system: 37 U.S.C.; 33 U.S.C. 857-5, 857a, 855.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Also the record is sent to the organization to which officer is assigned such as branches of the U.S. Military Service, branches of foreign military services, World Weather Organization, etc., to authorize travel and travel allowances and to effect assignments and assignment changes for commissioned officers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in a locked space. Access only on the authority of the Director, NOAA Corps, or the Chief/Deputy Chief, Commissioned Personnel Division.

Retention and disposal: Retained as separate file on all active duty officers. Incorporated into the Official Personnel File of retired and deceased officers and retained. Incorporated into the Official Personnel File of separated officers and after six months transferred to the National Personnel Records Center, St. Louis, Missouri 63118.

System manager(s) and address: Director, NOAA Corps, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide full name, social security number, date of birth, and dates of service, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual's Official Personnel Record and from the approved recommendations of the Officer Assignment Board.

COMMERCE/NOAA-3.

System name: Commissioned Officer Official Personnel Folders—COMMERCE/NOAA-3.

System location: Office of the Director, NOAA Corps (NC), National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

Categories of individuals covered by the system: Commissioned Officers of the NOAA Corps (active, retired, and deceased) and former commissioned officers separated within previous six months.

Categories of records in the system: Name, social security number; selective service number; promotion history; history of assignments; performance evaluations; date of birth; education; prior employment history; prior uniformed service; pay and allowance data; relatives; references; commendations; discipline; insurance; medical evaluations; and similar personal information.

Authority for maintenance of the system: 33 U.S.C. 853a-t, 854a-a-2, 855, 856, 857, 857-1-5, 857a, 858, 864, 865, 872, 873, 874, 875, 876; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; and, E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Users are Selective Service System, Veterans Administration, Federal Housing Administration, Social Security Administration, Public Health Service, Department of Defense elements, Taxing authorities (Federal, State and local), unemployment compensation authorities, and the organization to which officer is assigned such as branches of U.S. Military Service, branches of foreign military services, World Weather Organizations, etc. Selected information is disseminated to determine eligibility for retention, promotion, retirement, separation, and other personnel actions; physical fitness; entitlement to pay and various allowances; report taxes withheld; entitlement to social security benefits, veterans benefits, unemployment compensation, waivers for repayment of student loans, death benefits, survivor benefits, and FHA in-service loans; assignments; and selective service status.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in secured area. Access only on the authority of the Director, NOAA Corps or the Chief/Deputy Chief, Commissioned Personnel Division.

Retention and disposal: Records retained indefinitely on active, retired, and deceased officers; discharged officer's records are retained for approximately 6 months, then transferred to the National Personnel Records Center, St. Louis, Missouri 63118.

System manager(s) and address: Director, NOAA Corps, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, social security number, and date of birth pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, official correspondence and forms generated by routine personnel actions, previous employers, prior military service, Selective Service System, Federal Housing Administration, Social Security Administration, and similar sources.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f))of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine employee's suitability for employment in the NOAA Corps.

COMMERCE/NOAA-4.

System name: Commissioned Officers Retired Payroll—COMMERCE/NOAA-4.

System location: Office of the Director, NOAA Corps, NOAA, Rockville, Md. 20852.

Categories of individuals covered by the system: Commissioned officers of the NOAA Corps who are entitled to retired pay, and the survivors of deceased active duty and retired officers who are entitled to a survivor's annuity.

Categories of records in the system: Name; social security number; amount of gross retired pay or survival annuity; amount of federal income tax withheld; amount of VA reduction; amount of survivor benefit cost deducted; miscellaneous deductions; and net retired pay or annuity.

Authority for maintenance of the system: 33 U.S.C. 853a-h; 853j-l-t; 854a-2; 856; 857-2; 857-5; 872; 873. Authorities for Payroll Records: 5 U.S.C. 301; 552; Chap. 55; 31 U.S.C. 550; 628; 31 U.S.C. 52; 15 U.S.C. 1511; 37 U.S.C. 201 (Pay for Commissioned Officers); 5 App. Reorg. Plan No. 4 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual, flat-paper computer print-out.

Retrievability: Filed by month and year.

Safeguards: Records are maintained in a secured area. Access only by authority of the Director, NOAA Corps or the Chief, Program Planning, Liaison and Training Division.

Retention and disposal: Retained 3 years and then destroyed.

System manager(s) and address: Director, NOAA Corps, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide full name, grade, social security number and branch of service pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Information is a print-out from the computerized retired pay system maintained by the Commanding Officer, U.S. Navy Finance Center, 240 East Ninth Street, Cleveland, Ohio 44199, who maintains, under contract, the pay accounts of retired NOAA Corps officers and their annuitants.

COMMERCE/NOAA-5.

System name: Fisheries Law Enforcement Case Files—COMMERCE/NOAA-5.

System location: Enforcement Division, NMFS, 3300 Whitehaven Street, NW., National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Categories of individuals covered by the system: Violators and alleged violators of the criminal and/or civil provisions of certain laws (listed in the Authority section of this notice) and the regulations issued thereunder, within the responsibility of the Secretary of Commerce.

Categories of records in the system: 1. Information compiled for the purpose of identifying individual criminal and/or civil offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal or civil charges, sentencing, confinement, release, parole and probation status, and fines and penalties assessed;

2. Information compiled for the purpose of a criminal or civil investigation, including reports of informants and investigators, and associated with an identifiable individual;

3. Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal and civil laws from arrest or indictment through release from supervision, and the imposition of civil sanctions through administrative and/or judicial process; and

4. Investigatory material compiled for law enforcement purposes other than the material covered above.

Authority for maintenance of the system: Reorganization Plan No. 4 of 1970; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; E.O. 10450; Certain sections of Titles 15, 16, 18, and 22 of the United States Code; and, relevant treaty, international convention, and/or agreements of which there are approximately 20. (Example: International Convention for the Regulation of Whaling (TIAS 1849) cf. 16 U.S.C. 916).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in Prefatory Statement. Also, information is given to the Marine Mammal Commission for their use in making recommendations on the issuance of permits and the award of grants under the Marine Mammal Protection Act of 1972.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed alphabetically by individual's name and is also given an identifying case number at its initiation.

Safeguards: Employees are informed of the Departmental rule of conduct regarding unauthorized disclosure of information contained in official records. All Special Agents receive a security clearance, granted by the Department of Commerce, after an investigation. The files of the Law Enforcement Division which relate to information concerning an identifiable individual are maintained in locked, metal file cabinets. Automated records are maintained in premises with access limited to those whose official duties require access.

Retention and disposal: All records of this Division are subject to the retention and disposal procedures set forth in NOAA Directives Manual 62-10, et seq.

System manager(s) and address: Chief, Enforcement Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street, NW., Page Building 2, Suite 426, Washington, D.C. 20235.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, and case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; NMFS investigators; Federal and state law enforcement personnel; foreign governments; special interest organizations, members of the general public, and all information sources that are open to the public-at-large.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(2), on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meet the criteria stated in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. In addition, pursuant to 5 U.S.C 552a(k)(1), all materials qualifying for this exemption are exempt from 5 U.S.C 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) in order to prevent disclosure of classified information as required by Executive Order 12065 in the interest of the national defense and foreign policy.

COMMERCE/NOAA-6.

System name: Fishermen's Statistical Data—COMMERCE/NOAA-6.

System location: Data Management and Information Systems Division, NMFS, NOAA, U.S. Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C. 20235; and the following field locations of the National Marine Fisheries Services:

Northeast Fisheries Center
Woods Hole, Massachusetts 02543

Southeast Fisheries Center
75 Virginia Beach Drive
Miami, Florida 33149

Southwest Fisheries Center
P.O. Box 271
LaJolla, California 92038

Northwest and Alaska Fisheries Center
2725 Montlake Boulevard, East
Seattle, Washington 98112

Northeast Regional Office
14 Elm Street, Federal Building
Gloucester, Massachusetts 01930

Southeast Regional Office 9450 Gandy Boulevard
St Petersburg, Florida 33702

Southwest Regional Office
300 South Ferry Street
Terminal Island, California 90731

Northwest Regional Office
1700 Westlake Avenue, North
Seattle, Washington 98105

Alaska Regional Office
P. O. Box 1668
Juneau, Alaska 99802

Categories of individuals covered by the system: Marine recreational and commercial fishermen, owners/operators of registered/documented boats and vessels.

Categories of records in the system: a. Marine recreational fishermen catches by species, length, weight, area of capture, disposition of catch, and expenses and other trip records.

b. Fishery Management Plan data consist of such data as: Individual's name, address, telephone number, sex, age group, and income group, obtained in fishing censuses. Other data contain boat and vessel registration information, including owner and operator, vessel characteristics, gear types, and area fished.

Authority for maintenance of the system: a. Fish and Wildlife Act as amended (16 U.S.C. 742 et seq.).

b. Fishery Conservation and Management Act of 1976 as amended (16 U.S.C. 1852).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. See routine use paragraphs in the Prefatory Statement.

b. Data in the system are required for the development and monitoring of fishery management plans.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy, punch cards, mag-tape, and disc files.

Retrievability: Filed alphabetically by name.

Safeguards: Personnel indoctrination and screening; secured offices; and entrance into the computer system to obtain individual records would require detailed knowledge of-in-house ADP procedures by a skilled computer programer.

Retention and disposal: Records are permanently maintained.

System manager(s) and address: Executive Director, National Marine Fisheries Service, 3300 Whitehaven Street, Washington, D.C. 20235.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals.

COMMERCE/NOAA-7.

System name: Guest Workers at National Geophysical and Solar-Terrestrial Data Center—COMMERCE/NOAA-7.

System location: National Geophysical and Solar-Terrestrial Data Center, EDS/NOAA, RB3, Room A123, Boulder, Colorado 80302.

Categories of individuals covered by the system: People that are visiting NGSDC as Guest Workers to use the data files.

Categories of records in the system: Name; address; length of visit; type of work they are doing; and education.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in metal file cabinets which are locked after hours. Access is limited to those whose official duties require access.

Retention and disposal: Records are retained for 3 years.

System manager(s) and address: Administrative Officer, NGSDC, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Blvd., Rockville, Maryland 20852. Requester should provide name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NOAA-8.

System name: Individuals Engaged in Weather Modification Activities—COMMERCE/NOAA-8.

System location: Assistant Administrator for Research and Development, NOAA, U.S. Department of Commerce, 6010 Executive Blvd., Rockville, Md. 20852.

Categories of individuals covered by the system: Individuals and associations involved in weather modification operations.

Categories of records in the system: Individual's name and address; type of weather modification activity; location and duration of project; and equipment used.

Authority for maintenance of the system: P.L. 92-205; 15 CFR Part 908.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also information is made available to anyone who so requests.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder.

Retrievability: Filed sequentially by chronology.

Safeguards: Records are located in cabinets with full public access upon request.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Office of the Director, Office of Weather Modification, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide—name, address, date(s) of project etc., pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual or association involved and those authorized by the foregoing to furnish information.

COMMERCE/NOAA-9.

System name: Scientist-Researchers in GATE (Global Atmospheric Research Program Atlantic Tropical Experiment)—COMMERCE/NOAA-9

System location: Assistant Administrator for Research and Development, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

Categories of individuals covered by the system: Research meteorologists and ocean scientists participating in the Global Atmospheric Research Program Atlantic Tropical Experiment (GATE).

Categories of records in the system: Names of individual scientists; their research institutions and research programs; and their addresses.

Authority for maintenance of the system: Ministerial requirement necessitated by NOAA's appointment, as lead agency for the U.S. participation in "GATE"; Presidential memorandum dated July 5, 1968 to DOC; 5 U.S.C. 301; and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Data is also used to summarize and evaluate the U.S. GATE Research Program for the World Meteorological Organization incorporation into the International summary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by name of principal scientist.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secure premises with access limited to those whose official duties require access.

Retention and disposal: Records maintained indefinitely.

System manager(s) and address: Director, GATE Project Office, see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Blvd., Rockville, Maryland 20852, Requester should provide-name and address etc., pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NOAA-10.

System name: NOAA Diving Program File—COMMERCE/NOAA-10.

System location: a.NOAA Diving Office, 11400 Rockville Pike, Rockville, Maryland 20852.

b. For Atlantic Marine Center personnel, duplicate records are maintained at the Atlantic Marine Center, 439 West York Street, Norfolk, Virginia 23510.

c. For Pacific Marine Center personnel, duplicate records are maintained at the Pacific Marine Center, 1801 Fairview Avenue, East, Seattle, Washington 98102.

Categories of individuals covered by the system: Applicants for the diving program and NOAA employees who are NOAA certified Divers.

Categories of records in the system: Diving physical examinations, verification of completed scuba instruction, NOAA scuba diving written examination, diver resume, diver evaluations, letters of certification and/or appointment, monthly diving logs, individual correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 16 U.S.C. 1432; 33 U.S.C. 1441, 1442.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine readable.

Retrievability: Alphabetically by surname.

Safeguards: Records are located in locked metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Five years after termination of diver.

System manager(s) and address: For records at location a.: NOAA Diving Coordinator, 11400 Rockville Pike, Rockville, Maryland 20852.

For records at location b.: CAM Diving Officer, Atlantic Marine Center, 439 W. York Street, Norfolk, Virginia 23510.

For records at location c.: Budget and Finance Officer, Pacific Marine Center, 1801 Fairview Avenue, East, Seattle, Washington 98102.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville Maryland 20852. Requestor should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the Unit Diving Officer, training officers and NOAA Diving Medical Review Board.

COMMERCE/NOAA-11.

System name: NOAA Mailing Lists—COMMERCE/NOAA-11.

System location: Mailing lists are maintained at numerous NOAA installations throughout the United States. Addresses of major installations where there are mailing lists are:

Office of Publications
Main Commerce Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Headquarters:

Assistant Administrator for Management and Budget
6010 Executive Boulevard
Rockville, Maryland 20852

Director, Office of Finance
North Bethesda Office Center
11420 Rockville Pike
Rockville, Maryland 20852

Assistant Administrator for Fisheries:

Assistant Administrator for Fisheries, Office of Fisheries
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Director, Northwest Region
National Marine Fisheries Service, NOAA
1700 Westlake Avenue North
Seattle, Washington, 98109

Director, Southeast Region
National Marine Fisheries Service, NOAA
9450 Koger Boulevard
St. Petersburg, Florida 33702

Director, Northeast Region
National Marine Fisheries Service, NOAA
14 Elm Street
Federal Building
Gloucester, Massachusetts 01930

Director, Southwest Region
National Marine Fisheries Service, NOAA
300 South Ferry Street
Terminal Island, California 90731

Director, Alaska Region

National Marine Fisheries Service, NOAA
P.O. Box 1668
Juneau, Alaska 99802

Chief, Resource Statistics Division
National Marine Fisheries Service, NOAA
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Chief, Scientific Publications Office
National Marine Fisheries Service, NOAA
1107 Northeast 45th Street
Seattle, Washington 98105

Director, Northeast Fisheries Center, NOAA
Woods Hole, Massachusetts 02543

Director, Southwest Fisheries Center, NOAA
P.O. Box 271
LaJolla, California 92038

Director, Charleston Laboratory, NOAA
P.O. Box 12607
Charleston, S.C. 29412

Director, Southeast Fisheries Center, NOAA
75 Virginia Beach Drive
Miami, Florida 33149

Director, Beaufort Laboratory, NOAA
P.O. Box 570
Beaufort, North Carolina 28516

National Ocean Survey:

Director, National Ocean Survey
6001 Executive Boulevard
Rockville, Maryland 20852

Chief, Distribution Division, NOAA
Riverdale Building
6501 Lafayette Avenue
Riverdale, Maryland 20840

Environmental Data and Information Service:

Director, Environmental Data and Information Service
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Director, National Climatic Center
Environmental Data and Information Service
Federal Building
Ashville, North Carolina 28801

Director, National Geophysical and Solar Terrestrial Center
Research Building 3, NOAA
3100 Marine Street
Boulder, Colorado 80302

A roster of each mailing list covered by the Privacy Act and its specific location is maintained by the system manager, address below.

Categories of individuals covered by the system: Recipients of NOAA publications and/or other publicly available programmatic information.

Categories of records in the system: All of the lists contain names and addresses. Some of the lists contain telephone numbers, subscription information, addressee's product and its country of origin.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine readable.

Retrievability: Alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely; however, individuals are advised of the existence of the mailing list annually and at their request, names will be deleted or addresses corrected.

System manager(s) and address: Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852.

Notification procedure: Information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual.

COMMERCE/NOAA-12

System name: Marine Mammals, Endangered and Threatened Species, Permits and Exemptions Applicants—COMMERCE/NOAA-12

System location: Office of Marine Mammal and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Duplicate portions of the system may be located in the Regional Offices of the National Marine Fisheries Service at:

Federal Building
14 Elm Street
Gloucester, Massachusetts 01930

Duval Building
9450 Gandy Boulevard
St. Petersburg, Florida 33702

300 South Ferry Street
Terminal Island, California 90731

Lake Union Building
1700 Westlake Avenue North
Seattle, Washington 98109

P.O. Box 1668
Juneau, Alaska 99801

Categories of individuals covered by the system: Applicants for permits to take, import, transport or sell in interstate or foreign commerce endangered species or marine mammals either for scientific research or public display purposes; for enhancement of propagation or enhancement of survival; or to minimize undue economic hardship. Applicants for exemptions from the provisions of the Marine Mammal Protection Act of 1972, on the basis of undue economic hardship. Applicants for permits to engage in activities involving threatened species or marine mammals which are otherwise prohibited by protective regulations.

Categories of records in the system: Name and address; professional or business affiliation; educational and professional background; other qualifications of the individuals; the activities conducted by an individual as authorized by exemption or by permit; and economic and financial information indicating the degree of anticipated economic hardship.

Authority for maintenance of the system: Endangered Species Act of 1973; 16 U.S.C. 1531-1543 10(a), 10(b), 11(f); Marine Mammal Protection Act of 1972; 16 U.S.C. 1361-1407, and regulations (50 CFR 216.31) promulgated thereunder.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Information from the applications is published in the Federal Register and made available to the public to comply with the statutes under which the application is made.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed by file number and cross-referenced alphabetically by applicant names.

Safeguards: Records are located in cabinets with full public access upon request.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Wahsington, D.C. 20235

Notification procedure: Information may be obtained from the Assistant Administrator for for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address pursuant to to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification procedure section above.

Contesting record procedures: The rules for access, for contesting contents and appealing initial determinations by the individuals concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual applicants; public comments on an application; reviews by NMFS Offices and, in the case of marine mammals, the Marine Mammal Commission; reports from Federal agents and observers on activities conducted under permit authority; and those authorized by the individual to provide the information.

COMMERCE/NOAA-13

System name: Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils—COMMERCE/NOAA-13.

System location: New England Fishery Management COuncil
Office of the Executive Director
Peabody Office Building
One Newbury Street
Peabody, Massachusetts 01960

Mid-Atlantic Fishery Management Council
Office of the Executive Director
Federal Building, Room 2115
North and New Streets
Dover, Delaware 19901

South Atlantic Fishery Management Council
Office of the Executive Director
Southpark Building, Suite 306
1 Southpark Circle
Charleston, South Carolina 29407

Caribbean Fishery Management Council
Office of the Executive Director
Suite 806
Banco de Ponce Building
(Postal Address)
P. O. Box 1001
Hato Rey, Puerto Rico

Gulf of Mexico Fishery Management Council
Office of the Executive Director
Lincoln Center, Suite 881
5401 West Kennedy Boulevard
Tampa, Florida 33609

Pacific Fishery Management Council
Office of the Executive Director
528 S.W. Mill Street
Portland, Oregon 97201

North Pacific Fishery Management Council
Office of the Executive Director
Suite 32
333 West Fourth Avenue
(Postal Address)
P. O. Box 3136DT
Anchorage, Alaska 99501

Western Pacific Fishery Management Council
Office of the Executive Director
Room 1506
1164 Bishop Street
Honolulu, Hawaii 96813

Categories of individuals covered by the system: Members of each Regional Fishery Management Council, members of each Coun- cil's Scientific and Statistical Committee, members of each Council's Advisory Panel; each Council's staff.

Categories of records in the system:

a. Personnel information including but not limited to name, birthdate, social security number employment history, educa- tion and training, personnel actions, and performance appraisals, records relating to life insurance, health benefits, and designation of beneficiary, medical records.

b. Payroll information including but not limited to marital status, mailing address, number of dependents, allotments and deductions for income tax withholding, savings bonds, charity contributions, and insurance premiums.

c. Travel orders and vouchers including data such as destination, itinerary, mode and purpose of travel, expense incurred.

d. Time and attendance data including number of regular, overtime, holiday, Sunday, and other hours worked; number of hours on leave (sick, annual, holiday, etc.).

Authority for maintenance of the system: Fishery Conservation and Management Act of 1976 (P.L. 94-265, 16 U.S.C. 1852).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used as indicated below:

a. See routine use paragraphs in Prefatory Statement.

b. When an individual to whom a record pertains dies, information in the individual's record may be disclosed to the person appointed as representative of the estate, to the person designated by the representative, or to a designated benefi- ciary. When a representative of the estate has not been appointed, the next of kin may be recognized as the represen- tative of the estate.

c. Information may be disclosed to authorize payroll deductions for allotments, savings bonds, charitable contributions, union dues, health benefits and life insurance; collect indebted- ness for overpayment of salary and unpaid internal revenue taxes; pay income tax obligations to the Internal Revenue Service and state and local tax authorities, as appropriate; authorize mailing or holding salary checks or savings bonds; authorize issuing of salary checks by the Treasury Department; obtain reimbursement of travel expenses for offi- cial business; report gross wages and separation information for unemployment compensation; pay any uncollected compensation due a deceased employee; and provide for a summary of employees payroll data and retirement contributions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and magnetic storage media.

Retrievability: Alphabetically by name, or by social security number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance is restricted to authorized personnel only. All payroll personnel, computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Retained on site until after GAO audit, then either disposed of or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: The Executive Director of each Council; address as shown under system location above.

Notification procedure: Information may be obtained from: The Executive Director of the appropriate Regional Fishery Management Council or the Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and other identifying information pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, those authorized by the individual to furnish information; employee's supervisor; timekeepers.

COMMERCE/NTIA-1.

System name: Radio Spectrum Management Career Development Program—COMMERCE/NTIA-1.

System location: National Telecommunications and Information Administration,, 1325 G Street, N.W., Washington, D.C. 20005

(paper); and 179 Admiral Cochrane Drive, Annapolis, Maryland 21401 (magnetic disc).

Categories of individuals covered by the system: Applicants for spectrum management career training; persons trained or training in the program; persons employed in the Federal spectrum management field, or seeking employment therein, who register with the program.

Categories of records in the system: Employee Career Appraisals; Career Program Qualification Records and Supplements thereto; Career Plans; Personal Qualification Statements; Federal Employment Application. These records contain information about an individual and his skills and qualifications for training which typically includes, but is not limited to, name, address, date of birth, Social Security Account Number, education, military experience, present position, employment history, performance evaluations, and career goals.

Authority for maintenance of the system: 47 U.S.C. 305, Executive Order 12046 and Reorganization Plan No. 1 of 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to participating Federal agencies upon their request in connection with the selection of candidates for training, the evaluation of trainees, and in the administration of the training program. Information is disclosed to other Federal agencies upon their request in connection with the availability of trained spectrum managers for employment. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and machine readable magnetic discs.

Retrievability: Stored alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Unless updated, documents are disposed of after two years.

System manager(s) and address: Coordinator, Radio Spectrum Management Career Development Program, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504. Requestor should provide his or her full name.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use address in Notification section, above.

Record source categories: Applicants for spectrum management career training; trainees in the program; instructors and other officials conducting the program; Federal government employees in the spectrum management field, and persons desiring such employment, who register with the program, their supervisors, and other officials of the agencies that employ them.

COMMERCE/NTIS-1.

System name: Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files—COMMERCE/NTIS-1.

System location: Automated Data Processing Division & Document Distribution and Reproduction Division, NTIS, 5285 Port Royal Road, Springfield, Va. 22161.

Categories of individuals covered by the system: All individuals who order and/or purchase products and services from NTIS and all individuals who have requested that they be placed on the NTIS promotional mailing list.

Categories of records in the system: Name; address; items ordered; items sent; amount of purchases, date order received; date order mailed; NTIS deposit account or customer code number; total charge to date; whether account collectible or not; categories of publications ordered by each purchaser; when subscription expires; amount on deposit.

Authority for maintenance of the system: 15 U.S.C. 1151-57; 41 U.S.C. 104, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records maintained in the system are disclosed to NTIS sales agents; and to individuals, organizations, Federal agencies, and State and local governments contributing publications to NTIS for their market research and sales accounting purposes, through the mechanism of providing them the names and addresses of individuals (and others) who have purchased their publications. Also see general routine uses #1 through 6, #8 through 10, and #12 of Prefatory Statement noticed in the Federal Register on October 2, 1975, (40 FR 45635), and amended on Nov.7, 1975 (40 FR 52074) and August 17, 1976 (41 FR 34805).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, film files, magnetic tape and disc files.

Retrievability: Filed by individual identifier such as deposit account number or credit card account number.

Safeguards: Records are located in lockable metal file cabinets or in metal tape vaults in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are updated regularly and maintained indefinitely.

System manager(s) and address: Chief, Automated Data Processing Division, NTIS, 5285 Port Royal Road, Springfield, Va. 22161.

Notification procedure: Information may be obtained from: Associate Director for Financial and Administrative Management, NTIS, Sills Building, Springfield, Virginia 22161. Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and NTIS transaction files.

COMMERCE/NTIS-2.

System name: Employee Daily Time and Productivity Records—COMMERCE/NTIS-2.

System location: Accounting Division, NTIS, Room 208, Yorktowne Building, Springfield, Virginia 22161; Office of Policy and Planning, NTIS, Room 211A, Yorktowne Building, Springfield, Virginia 22161; and individual NTIS supervisors and managers with respect to employees supervised and programs managed. Computer file records may also be stored at the contractor's computer site: NCSS Computer Facility, 2777 Summer Street, Stamford, Connecticut 06905.

Categories of individuals covered by the system: Current and former NTIS employees.

Categories of records in the system: Name; social security number; organization unit; duty hours and work units processed by day and accounting project; time in duty status; time on leave; work volumes completed by individuals and by work unit and comparative data on current production compared with earlier periods; and salary.

Authority for maintenance of the system: 15 U.S.C. 1151-57, 1525-27; 31 U.S.C. 66a; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs numbered 1 through 6, 8 through 10, and 12 of Prefatory Statement noticed in the Federal Register on October 2, 1975 (40 FR 45635), and amended on November 7, 1975 (40 FR 52074) and August 17, 1976 (41 FR 34805).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and magnetic tape and disc files.

Retrievability: By name and/or employee social security number.

Safeguards: Records are located in lockable metal file cabinets, desks or secured ADP premises with access limited to those whose specific duties require access. Upon presentation of their specific security password, supervisors and managers may obtain records (at data processing terminals) on employees supervised and programs managed. Personal identifiers are encrypted and may only be decoded by authorized persons having access to a secure code key.

Retention and disposal: Records held by individual managers and supervisors are destroyed after not more than one year; records at other system locations are retained until after GAO audit, or not longer than three years, and then transferred to GSA for disposal.

System manager(s) and address: Chief, Accounting Division, NTIS, Room 208, Yorktowne Building, Springfield, Virginia 22161.

Notification procedure: Information may be obtained from Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161. Requester should provide name, social security number and time of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals; NTIS timekeepers, supervisors and managers.

COMMERCE/PAT-TM-1.

System name: Attorneys and Agents Registered to Practice Before the Office—COMMERCE/PAT-TM-1.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202, and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Attorneys and agents who are, or have been, registered to practice before thePatent and Trademark Office in patent cases, and applicants for such registration to practice.

Categories of records in the system: Biographical information, personal and professional qualifications, character and fitness reports, undertakings of former examiners, current address, and status information.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 31.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Prefatory Statement paragraphs on Routine Uses. Also, a public roster of the registered individuals is published periodically, and limited information is disseminated by Committee on Enrollment staff in response to inquiries from members of the public (e.g., potential clients), state bars, and courts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and magnetic storage media.

Retrievability: Filed alphabetically by name or registration number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Chairman, Committee on Enrollment, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name, address, and date of application, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b.

Record source categories: Subject individual, references, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-2.

System name: Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents—COMMERCE/PAT-TM-2.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Attorneys and agents registered to practice before the Patent and Trademark Office in patent cases, and disbarred or suspended attorneys and agents.

Categories of records in the system: Complaints and information obtained during investigations and quasi-judicial disciplinary proceedings.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 32.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, dissemination of information concerning the complaint, investigation, or disciplinary proceeding, by the Solicitor's staff, to the complainant, to persons who can reasonably be expected to provide information needed in connection with the complaint, investigation, or disciplinary proceeding, and, upon inquiry, to State bars and courts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and identification data pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, clients of same, registered attorneys and agents, witnesses in disciplinary proceedings, court opinions, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-3.

System name: Employee Production Records—COMMERCE/PAT-TM-3.

System location: Office of Management and Organization, U.. S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Employees of the Patent and Trademark Office.

Categories of records in the system: Employee name and number, position and grade level, time in duty status, time on leave, duty hours distributed by task, receipt date of oldest item in processing queue, beginning and ending balances of work in process, work volumes compiled by organization and in some organizations by individuals, and comparative data on current production compared with earlier periods.

Authority for maintenance of the system: 5 U.S.C. 301 and 35 U.S.C. 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder, microfilm and magnetic storage media

Retrievability: Filed by organization; cross referenced for access by name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office of Management and Organization, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide employee name and number, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and the individual's supervisors.

COMMERCE/PAT-TM-4.

System name: Government Employee Invention Rights—COMMERCE/PAT-TM-4.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Government employees who are inventors or nongovernment employees who are joint inventors together with a government employee inventor.

Categories of records in the system: Invention rights questionnaires including information as to the inventor's employment status and his official duties and responsibilities at the time the invention was made, title determinations, appeals to the Commissioner, and petitions for reconsideration.

Authority for maintenance of the system: 35 U.S.C. 1 and 6, and E.O. 10096, dated January 23, 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See paragraphs on routine uses in the Prefatory Statement to these notices. Also, information is transferred to various Government departments and agencies in connection with determinations made as to respective property rights (or the methods of protection thereof) of Government employees and such departments and agencies in and to inventions made by such employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name and case number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Head, Office of Government Employee Inventions, Office of the Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name (and case number, if known) pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and their employees, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Government Employee Invention Rights records which relate to applications or inventions subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which are published in the Rules Section of this Federal Register.

COMMERCE/PAT-TM-5.

System name: Non-Registered Persons Rendering Assistance to Patent Applicants—COMMERCE/PAT-TM-5.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Persons other than registered attorneys or agents who have offered or rendered, for payment, various services to inventors, patent applicants and patentees.

Categories of records in the system: Declarations of assistance received and other reports or complaints, including names and addresses, of persons rendering services, and information given and used for investigatory and law enforcement purposes.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 33; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Providing notice to patent applicants, by Solicitor's staff, regarding whether or not the persons from whom assistance was received are registered to practice before the Office. Used by Solicitor's Staff for investigative purposes. Also, see paragraphs on routine uses in Prefatory statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address, and name of patent applicants, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Patent applicants who have received and paid for services by the individuals on whom the records are maintained.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e), (1), (e)(4)(G), (H), and (I), and (f)), of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/PAT-TM-6.

System name: Parties Involved in Patent Interference Proceedings—COMMERCE/PAT-TM-6.

System location: Board of Patent Interferences, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants for patent and patentees who become involved in a conflict involving the question of priority of invention.

Categories of records in the system: All records relating to the declaration, conduct, and termination of interference proceedings, including, but not limited to: preliminary statements, motions, testimony, and settlement agreements. The data contained in the records may include information relating to the applicant's or patentee's name, age, citizenship, residence, educational and work background, physical and mental health, activities relating to conception and reduction to practice of the contested subject matter, and other matters which may arise during the conduct of the interference proceeding or in connection with any agreements made by the parties relative to the interference proceeding.

Authority for maintenance of the system: 35 U.S.C. 1, 6, 23, 24, and 135.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records relating to interferences which involve a patent are open to public inspection after an award of priority by the Board of Patent Interferences as to all parties, or, if none, after termination of the interference. Records relating to interferences which do not involve a patent are open to public inspection after the interference has terminated and one of the applications involved has issued a patent. Otherwise, information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications or patents involved, or when necessary to carry out the provisions of any

act of Congress or in such special circumstances as may be determined by the Commissioner. Copies of settlement agreements filed under 35 USC 135(c) are kept separate from other interference records if the party filing them so requests, and are made available, as provided in the statute, only to Government agencies on written request or to any person on a showing of good cause. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by Interference Number, cross-indexed to the names of the parties.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Chairman, Board of Patent Interferences, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address, and Interference Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Applicants for patent and patentees, the patent attorneys or agents authorized by such persons to represent them, those authorized by the applicant to furnish information, and witnesses and other parties involved in the taking of testimony.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Interference Proceedings records which relate to applications subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-7.

System name: Patent Application Files—COMMERCE/PAT-TM-7 (Note: This notice is broken down, where indicated, into three subsystems relating to the status of the files: a. Pending; b. Abandoned; and c. Patented.)

System location: a. U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Underground Storage, Boyers, Pa. 16020; Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Customer Services Division, U.S. Department of Commerce, Washington, D.C. 20230; b. Abandoned Files Unit, Office Services Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; c. Record Branch, Patent Search Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of Automatic Data Processing Management, Computer Center, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Oath or declaration of applicant including name, citizenship, residence, post office address and other information pertaining to the applicant's activities in connection with the invention for which a patent is sought. Statements containing various kinds of information with respect to inventors who are deceased or incapacitated, or who are unavailable or unwilling to make application for patent.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 115; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information concerning these records is provided outside the Office only upon authorization of the applicant or owner of the application or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Commissioner, e.g., secrecy order files under 35 U.S.C. 181. b. Same as a., except where application is referred to in a U.S. Patent, in which case the record is open to public inspection. c. Records are open to public inspection.

All three subsystems are also subject to the routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, microfilm and magnetic storage media.

Retrievability: Subsystems a. and b. filed by serial number, cross-indexed to name of applicant. Subsystem c. filed by patent number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: a. Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231; b. Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231; c. Director, Office of Patent and Trademark Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name of applicant or patentee and Serial Number or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The inventors or other persons who submit applications for patent and the patent attorneys or agents authorized by such inventor or other persons to represent them.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Applications, to the extent that they are subject to a secrecy order pursuant to 35 U.S.C. section 181 or are otherwise subject to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954 are exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-8.

System name: Patent Application Secrecy Order Files—COMMERCE/PAT-TM-8.

System location: Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Identification of patent application and applicant including application serial number, filing date, title of invention, applicant's or inventor's address and addresses of applicant's duly appointed representatives.

Authority for maintenance of the system: 35 U.S.C., 1, 6, and 181 through 183.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to authorized Government agencies under 35 U.S.C. 181 for determination of the requirement for a secrecy order, and notification of the applicant or his duly appointed representative of such secrecy order. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by application serial number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained, and stored in a locked vault.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Patent Examining Group 220, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and social security or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicants or their representatives and authorized representatives of the Department of Energy, the Secretary of Defense, and the Chief Officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), these records, since they relate to determinations pertinent to secrecy orders pursuant to 35 U.S.C. 181 or to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-9.

System name: Patent Assignment Records—COMMERCE/PAT-TM-9.

System location: Office of Patent and Trademark Services, Assignment Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202; Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Persons who have given or received property rights under an application for patent or a patent by means of a written instrument recorded in the Patent and Trademark Office. Deceased or incapacitated inventors and their legal representatives.

Categories of records in the system: Assignments, grants, mortgages, liens, encumbrances, licenses, and other instruments affecting title. Letters testamentary and other court certificates and orders.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 261, and E.O. 9424.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See the routine use paragraphs of the Prefatory Statement. Records open to the public are searched by users for the purpose of determining ownership or other property rights with respect to patents and trademarks. On the separate Government Register, records categorized as "Public" are available for public inspection; those records categorized as "Departmental" are used by duly authorized employees of Government agencies; and those records designated as "Secret" are disclosed only to persons having written authority from the head of the agency submitting the record. Assignment records relating to pending patent applications are maintained in confidence in accordance with 5 U.S.C. 122.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, microfilm reels, index card files and magnetic storage media.

Retrievability: Filed by inventor's name, application serial number, assignee's name, and assignor's name.

Safeguards: Building employs security guards. Records subject to confidence requirements are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Records in the Secret Portion of the Government Register are, additionally, stored in a locked vault. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Recording Officer, Assignment Division, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide assignee's or assignor's name(s), and application serial number, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Persons who have submitted written instruments to the Patent and Trademark Office for recording.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), assignment records which are designated "Secret" and maintained in the Government Register pursuant to E.O. 9424 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance with agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-10.

System name: Patent Deposit Accounts System—COMMERCE/PAT-TM-10.

System location: Receipts Control Division, Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Registered patent attorneys and agents and other members of the public who maintain deposit accounts to pay the cost of services rendered by the Patent and Trademark Office.

Categories of records in the system: Name, address, account number, and financial transactions with the Office.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 41.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm and magnetic storage media.

Retrievability: Filed by name, account number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office, of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and account number in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-11.

System name: Patent Examiner Testimony Files—COMMERCE/PAT-TM-11.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Employees and former employees who have testified in person or through deposition in court actions in regard to duties performed while employed by the Patent and Trademark Office, or who have been interviewed to determine whether such testimony will be taken.

Categories of records in the system: Name, address, employment status, education, work experience, and other matters which might be raised in the course of a deposition or other testimony.

Authority for maintenance of the system: 35 U.S.C. 1 and 6; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy.

Retrievability: Filed alphabetically by name.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Solicitor, U.S. Patent and Trademark Office, Washington D.C. 20231

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and date(s) of testimony or interview, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, the individual's coworkers, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-12.

System name: Patent Subscription Service System—COMMERCE/PAT-TM-12.

System location: U.S. Patent and Trademark Office, Office of Patent and Trademark Services, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Individuals subscribing to copies of patents, trademarks, designs, defensive publications, and related publications issued in certain classes or subclasses.

Categories of records in the system: Name of subscriber, Deposit Account Number, address, classes or subclasses subscribed to, total number of subclasses subscribed to; and initial payment per year. Weekly listings of patent, trademark, design, defensive publication, and related publication numbers for each subscription order.

Authority for maintenance of the system: 35 U.S.C. 41; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On magnetic tape and computer print out.

Retrievability: By subscriber's name and account number.

Safeguards: Maintained in areas accessible only to authorized personnel in building protected by security guards nonbusiness hours.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director of Office of Patent and Trademark Services U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and Deposit Account Number in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-13.

System name: Petitioners for License to File for Foreign Patents—COMMERCE/PAT-TM-13.

System location: Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Petitioners for license to file a patent application in any foreign country.

Categories of records in the system: Petitioner's name, address, and description of subject matter, or, where a corresponding U.S. application has been filed, identification of applicant including application serial number, filing date, title to invention, applicant's address and addresses of applicant's duly appointed representatives.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 184.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy and magnetic storage media.

Retrievability: By number assigned called P number and by serial number related to P number when additional matter is submitted in connection with a corresponding U.S. application, cross-indexed to petitioner's name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Patent Examining Group 220, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U. S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and serial number or P number, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals or their duly appointed representatives.

COMMERCE/PAT-TM-14.

System name: Users of Public Search Room of the Patent and Trademark Office—COMMERCE/PAT-TM-14.

System location: Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Federal employees other than employees of the Patent and Trademark Office; employees and other representatives of commercial firms offering patent search services to the public; registered agents before the Patent and Trademark Office; and any member of the general public who uses the search room.

Categories of records in the system: Name; home address; business firm or other organizations with which affiliated, as appropriate; user pass number; registration number, if a registered agent before the Patent and Trademark Office; violations of regulations governing use of the search room; and the signature of recipients of user passes,

indicating that the recipient has read the regulations governing the use of the search room.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be disclosed to law enforcement authorities, employers of violators of regulations governing use of the search room, and organizations with which recipients of user passes claim affiliation. Information such as home address or business affiliation, on individuals who have removed, with proper authority, patent documents from the search room but have failed to return such documents, may be used in retrieving such documents. Also, see general routine uses #1-6, #8-10 and #12 noticed in the Federal Register. See Prefatory Statement of General Routine Uses, September 13, 1976, 41 FR 38953-54.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Alphabetically by name and sequentially by user pass number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained pursuant to Records Control Schedule, with periodic updating or posting of information, when appropriate and necessary.

System manager(s) and address: Director, Office of Patent and Trademark Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address and date of visit to the search room, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual; employers; and those authorized by individual.

COMMERCE/WBO-1.

System name: Talent and Experience File of Women's Business Experts—COMMERCE/WBO-1.

System location: Office of Administrative Services, U.S. Department of Commerce, 14th & E Streets and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals: with whom the Task Force communicated; having knowledge of women's business operations, problems and discriminations; or having special skills which would be of assistance to the Task Force.

Categories of records in the system: Personal background data normally including name, age, address, telephone numbers, Social Security number, business and work experience, educational background, professional association memberships, publications and information on areas of expertise.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to other Federal agencies upon their request to provide names and addresses of individuals who possess special skills or expertise related to the problems of women business owners. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual's name.

Safeguards: Records are on premises with access limited to individuals whose official duties require access.

Retention and disposal: Retained on site for five (5) years and then disposed of in accordance with the Office of the Secretary Records Control Schedule.

System manager(s) and address: Deputy Under Secretary for Regional Affairs, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the notification section above.

Record source categories: Subject individual; those authorized by the individual to furnish information; public reference sources; government, private and public interest organizations. /*

[FR Doc. 80-37773 Filed 12-11-80; 8:45 am]

BILLING CODE 3510-17

Reader Aids

Federal Register
Vol. 45, No. 241
Friday, December 12, 1980

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders and problems (GPO)	783-3238
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, DECEMBER

79407-79740 1
79741-80096 2
80097-80266 3
80267-80462 4
80463-80806 5
80807-81022 8
81023-81198 9
81199-81528 10
81529-81724 11
81725-82150 12

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.

1 CFR

51 ..... 79489, 81484

3 CFR

Administrative Orders:
Notice of Intent of November 12, 1980 (Request for comments) 79407
Memorandum of December 3, 1980 80465

Executive Orders:
Executive Order of November 24, 1903 (Revoked in part by PLO 5787) 80828
12254 80463
12255 80807

Proclamations:
4807 80809

4 CFR

Ch. III 79409

5 CFR

Ch XIV 80467
213 ..... 81023-81029, 81725
317 80467
351 81725
359 80467
412 80468
870 80472
890 81728
930 81029

Proposed Rules:
1 79846
890 81764

7 CFR

2 80477
46 81529
271 81030
272 81030
273 79741
275 81030
319 81530
330 80267
331 81728
419 81531
713 79743
725 80477
729 80479
730 79745
795 79746
800 79736
802 80985
905 ..... 80269, 81199
907 ..... 80269, 81532
910 ..... 80481, 81731
911 80270
915 80270
928 81731
966 80270
989 81532
1133 81199
1421 ..... 81533, 81534
1701 81732
1901 79747

Proposed Rules:
273 80790
282 80804
631 81210
907 80117
959 80533
982 79818
989 81058
1135 79818
1280 80535
1438 79492
1942 81211
2859 79819

8 CFR

238 81535
292 81732

9 CFR

82 ..... 80097, 80813, 81535
92 80098

Proposed Rules:
308 79819
312 81764
316 81764
381 79819

10 CFR

1 80270
30 79409
40 79409
50 79409
70 79409
72 80271
73 ..... 79410, 80271
212 81008
150 ..... 79409, 80271
212 80482

Proposed Rules:
Ch. I 79819
50 ..... 79820, 81602
51 79820
71 81058
73 ..... 79492, 81060
100 79820
599 81012
745 80830

12 CFR

Ch. VI 81733
203 80813
204 ..... 79748, 81536
205 79750
211 81537

262 ..... 81541, 81543
303 79410
309 79410
522 81545
701 ..... 79412, 81032
Proposed Rules:
29 79493
226 80648
545 79493
701 79494

13 CFR
113 81734
122 80483
124 79413
Proposed Rules:
124 ..... 79496, 80117

14 CFR
11 80815
21 80972
23 80972
36 80972
39 ..... 79415, 79416, 80271, 81545–81547
71 ..... 80272, 81548
75 80273
91 80972
95 81549
97 81554
121 80972
135 ..... 80460, 80972
139 80972
322 79750
325 79751
374a 80098
385 ..... 79752, 80816
Proposed Rules:
21 ..... 80434, 80450
23 80450
25 80450
29 80450
39 ..... 80434, 80830
43 80450
45 80450
61 80450
63 80450
65 80450
67 ..... 80295, 80296
71 ..... 80831–80833, 81603
91 ..... 80434, 80450
121 80450
129 80450
135 80450
211 80117
215 80117
218 80117
221 80124
294 80117
296 80124
297 80124
300 81604
380 80117
385 80117
399 80117

15 CFR
4b 82102
376 80484
379 80484
Proposed Rules:
1001 81062

16 CFR
13 ..... 79753, 81036, 81555
1000 80816
Proposed Rules:
13 80301
441 80307
456 ..... 79823, 80833
1011 82066
1012 82066
1013 82066

17 CFR
1 ..... 79416, 79753, 80485
3 80485
240 ..... 79425, 80834, 81556
241 81558
Proposed Rules:
1 ..... 79498, 79831
3 80539
145 80539
147 80539

18 CFR
1 80816
271 80273
282 ..... 79427, 80817, 80818
Proposed Rules:
260 81062
271 81063
282 ..... 80125, 81211
292 ..... 80308, 80551

19 CFR
6 80099
177 80100
201 80275
Proposed Rules:
12 79730
127 79730
212 81605

20 CFR
Ch. I 81160
Ch. IV 81160
Ch. V 81160
Ch. VI 81160
Ch. VII 81160
208 81064
210 81064
216 81064
217 81064
219 81064
221 81064
230 81064
232 81064
237 81064
238 81064
Proposed Rules:
404 79501
416 79501
689 81768

21 CFR
102 80497
131 81734
146 80499
176 80500
510 ..... 79757, 81037, 81737
520 81738
522 ..... 79757, 81037
540 81738
548 81038
640 80500
1005 81739
1030 80501
Proposed Rules:
109 79856
110 79856
137 81064
225 79856
226 79856
310 81154
351 82014
358 80551
500 79856
509 79856
600 81065
606 81065
610 81065
620 81065
630 81065
640 81065
660 81065
814 81769

22 CFR
3 80818
41 ..... 80834, 81560, 81739
Proposed Rules:
22 81778
181 81606

23 CFR
Proposed Rules:
635 80836

24 CFR
42 81740
201 79427
203 79427
205 79427
207 79427
213 79427
221 79427
234 79427
235 79427
236 79427
241 ..... 79427, 80276
244 79427
841 80012
3610 81743
Proposed Rules:
201 81781
215 80836
241 80836
510 80308
885 80836
3500 80308

25 CFR
233 81560
Proposed Rules:
23 81781

26 CFR
1 81743
150 81561
Proposed Rules:
1 ..... 80837, 81066
48 80309
51 ..... 80551, 80554, 81606
142 80309
144 80309

28 CFR
0 ..... 79758, 81201, 81745
17 81490
Proposed Rules:
2 81212

29 CFR
1601 81039
2602 80822
Proposed Rules:
Subtitle A 81160
Ch. II 81160
Ch. IV 81160
Ch. V 81160
Ch. XVII 81160
Ch. XXV 81160
4 81785
452 80555
530 80555
1910 80078

30 CFR
71 80746
75 80501
90 80760
250 81562
850 82084
920 79431
Proposed Rules:
Ch. I 81160
Ch. VII 81526
936 80837

32 CFR
1–39 81402
159 79759
286 80502
299a 80106
553 80521
700 80277
Proposed Rules:
Ch. I 79508
Ch. V–VII 79508
Ch. XVI 80125

33 CFR
Proposed Rules:
Ch. II 79508
117 ..... 80839, 81607
162 81607
320 79836
321 79836
322 79836
323 79836
324 79836
325 79836
326 79836
327 79836
328 79836
329 79836
330 79836

34 CFR
240 80988
Proposed Rules:
805 80150

35 CFR
Proposed Rules:
103 80313

36 CFR
1120 80976
1212 81184
Proposed Rules:
Ch. III 79508
223 80526
1150 82080

38 CFR
17 80529
36 ..... 79802, 79803

Proposed Rules:
3 81787
21 ..... 81068, 81213

39 CFR
111 ..... 79804, 81563
Proposed Rules:
111 81787

40 CFR
Ch. I 81746, 81752
22 79808
35 81567
51 ..... 80084, 80824
52 ..... 79451, 79808, 80279, 80530, 81041
60 79452
62 80826
81 80826
86 81202
120 81042
123 ..... 81757, 81758
228 ..... 79809, 81042
261 80286
Proposed Rules:
52 ..... 79513, 79514, 79836 80314–80316, 80556–80559, 81069, 81070, 81214, 81608, 81789, 81792, 81793
55 79838
81 81070
123 80317–80319
266 80561
401 ..... 79692, 81180
423 81070
707 79726
720 ..... 81214, 81615
761 80320

41 CFR
5-9 81044
5-10 81045
5A-9 81044
5A-10 81045
5B-10 81045
101-35 81202
101-36 81202
101-37 81202
109-40 80287
Proposed Rules:
Ch. 51 79516
29 81160
60 81160

42 CFR
110 80531
405 ..... 79453, 80827
Proposed Rules:
405 79658
420 79658

43 CFR
35 80258
Proposed Rules:
4 81074
4100 79516
Public Land Orders:
2409 (Revoked in part by PLO 5780) 80291
706 (Revoked in part by PLO 5785) 80828
2555 (Amended by PLO 5784) 80827
5747 (Corrected in part by PLO 5782) 80291
5778 80290
5779 80290
5780 80291
5781 80291
5782 80291
5783 80291
5784 80827
5785 80828
5786 80828
5787 80828

44 CFR
64 79810
65 ..... 79455, 79456
67 ..... 79466–79479, 79810
Proposed Rules:
205 81215

45 CFR
Proposed Rules:
1801 81047
1226 80840

46 CFR
310 81567
Proposed Rules:
10 80843
33 81616
75 81616
78 81616
94 81616
97 81616
108 81616
160 81616
167 81616
192 81616
196 81616

47 CFR
1 79486
15 81568
64 81759
68 79486
73 81203
90 81204
97 80106
Proposed Rules:
Ch. I 81619
2 79516
13 79518
22 79516
73 ..... 79516, 79841, 79842, 80561, 81078–81080, 81215, 81796, 81797
76 81217

48 CFR
Proposed Rules:
8 79843
38 79843

49 CFR
106 81569
107 81569
171 ..... 80829, 81484, 81569
172 ..... 81484, 81569
173 ..... 81484, 81569
174 ..... 81484, 81569
175 ..... 81484, 81569
176 ..... 81484, 81569
177 ..... 81484, 81569
178 ..... 81484, 81569
179 81484
301 81573
511 81574
533 81593
1000 80292
1033 ..... 79487, 80292
1100 ..... 80109, 80110
1108 79810
1111 ..... 79488, 79816
1282 81050
Proposed Rules:
172 80843
392 81621
571 ..... 81624, 81625
644 79669
1051 81799
1102 81217
1109 80150
1310 81799

50 CFR
20 80293
23 80444
26 80112
33 ..... 80114, 80531, 81600
611 81056
661 79817
810 80444
Proposed Rules:
32 81081
285 79844
611 ..... 79846, 80845, 81633
671 80847

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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration—

74826 11-12-80 / Validation of accreditation surveys of hospitals

NUCLEAR REGULATORY COMMISSION

78623 11-26-80 / Licensing requirements for storage of spent fuel in independent spent fuel storage installations

[Originally published at 45 FR 74693, 11-12-80]

Rules Going Into Effect December 13, 1980

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Government National Mortgage Association—

69888 10-22-80 / List of attorneys-in-fact

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 10, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: January 16 and 30; February 13 and 27; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.