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federal register

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Highlights

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Highlights

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Rules and Regulations

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 408

Eastern United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Eastern United States Apple Crop Insurance Regulations as appearing in the **Federal Register** on Tuesday, October 14, 1980 (45 FR 67631–67637).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: The Eastern United States Apple Crop Insurance Regulations (7 CFR 408), appearing at 45 FR 67633 in the right column, are hereby corrected in 7 CFR 408.7 Eastern U.S. Apple Crop Insurance Policy, subsection 3, in the sixth line thereof, by deleting the word "insured" immediately following the word "of" and before the word "apples".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36756 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 418

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; corrections.

SUMMARY: This final rule corrects the Wheat Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 FR 74895–74898).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Corrections: Amendment No. 2 of the Wheat Crop Insurance Regulations (7 CFR Part 418), Appendix B, is hereby corrected in the following two instances:

1. Appendix B, appearing in the right column of 45 FR 74895, listing those counties where wheat crop insurance is available under the subheading "California", is corrected with the proper spelling of the word "Colusa".

2. Appendix B, appearing in the left column of 45 FR 74896, listing those counties where wheat crop insurance is available under the subheading "Illinois", is corrected with the proper spelling of the word "De Witt".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36757 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 419

Barley Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Barley Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 F.R. 74898–74899), in which the name of a county where barley crop insurance is available was inadvertently omitted.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: Amendment No. 2 to the Barley Crop Insurance Regulations (7 CFR § 419), Appendix B, appearing in the right column of 45 FR 74899, under the subheading "Wyoming", is hereby corrected by inserting the word "Platte" immediately beneath the word "Park" and above the word "Washakie".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36758 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 430

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Sugar Beet Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 FR 74899–74900).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: Amendment No. 2 to the Sugar Beet Crop Insurance Regulations (7 CFR 430) appearing at 45 FR 74900, in the left column, is corrected in Appendix "B", listing those counties where sugar beet crop insurance is available under the subheading "Idaho", by the correct spelling of "Twin Falls."

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36759 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 438

Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Tomato Crop Insurance Regulations as appearing in the **Federal Register** on Tuesday, October 14, 1980 (45 FR 67637-67643).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

Correction: The Tomato Crop Insurance Regulations (7 CFR Part 438), appearing at 45 FR 67638 in the right column, are hereby corrected in 7 CFR 438.7(d), in the ninth line thereof, by deleting the word "Insert" immediately after the word "Years" and before the word "Canning".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36760 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 439

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects typographical errors and an omission in the Almond Crop Insurance Regulations (7 CFR Part 439) as appearing in the **Federal Register** on Thursday, November 6, 1980.

EFFECTIVE DATE: November 25, 1980.

ADDRESS: Written comments on these corrections should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

Corrections: The Almond Crop Insurance Regulations (7 CFR Part 439) are corrected appearing in the following instances:

1. In the Supplementary Information section appearing in the center column of 45 FR 73629, the fourth line down is corrected to read, "insuring almonds effective with the 1981".

2. 7 CFR 439.1, appearing in the left column of 45 FR 73630, is corrected in the eleventh line to read, "county, there shall be published in".

3. 7 CFR 439.7(c)(12), appearing in the right column of 45 FR 73632, is corrected by adding a subsection (d) as follows:

§ 439.7 The application and policy

* * * * *

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix A, the contract shall continue in force for each succeeding crop year.

* * * * *

Done in Washington, D.C., on November 17, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 36761 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program; Correction

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document makes technical corrections to 15 CFR Part 931, Coastal Energy Impact Program. These corrections are necessary in order to be reflected in the Code of Federal Regulations volume, revised, January, 1981.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Irma L. Westrell, (202) 443-8192.

SUPPLEMENTARY INFORMATION:

1. Subpart E—Financing Public Facilities and Public Services: Section 931.45, Credit assistance inventory, as published at 44 FR 29591, May 21, 1979 includes major paragraphs (a), (b) (c) and (b). Change the second paragraph (b) to (d).

2. Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources: Section 931.75, Allotment of section 308(d)(4) environmental and recreational grants, as published at 44 FR 29596, May 21, 1979 includes a major paragraph (a) with one unnumbered subparagraph and codified subparagraphs (2) (3) and (4). Add the numeral (1) to the beginning of the unnumbered subparagraph.

Dated: November 18, 1980.

Mirco P. Snidero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 80-36613 Filed 11-24-80; 8:45 am]

BILLING CODE 3510-12-M

International Trade Administration

19 CFR Part 355

Countervailing Duties; Float Glass From Italy; Amendment to Countervailing Duty Order

Correction

In FR Doc. 80-33201, appearing at page 70442 in the issue of Friday, October 24, 1980, the following corrections should be made:

1. On page 70443, the last two lines of column one should read, "consumption on or after October 24, 1980."

2. Also on page 70443, the information in parentheses in the table in column two should be replaced by, "45 FR 70442, 10-24-80".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxibendazole Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

new animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden Laboratories, providing for use of oxibendazole suspension for the removal of certain strongylids, roundworms, and pinworms from horses.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420

SUPPLEMENTARY INFORMATION: Norden Laboratories, Lincoln, NE 68501, filed an NADA (109–722) providing for use of oxibendazole suspension for removal of certain large strongyles, small strongyles, large roundworms, and pinworms, including various larval stages, from horses. The application is approved, and the regulations are amended to codify the approved use of this product.

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 the 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 the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1640, to read as follows:

§ 520.1640 Oxibendazole suspension.

(a) *Specifications.* The suspension contains 10 percent oxibendazole.

(b) *Sponsor.* See 011519 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* 10 milligrams of oxibendazole per kilogram of body weight.

(2) *Indications for use.* For removal and control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*); small strongylids (species of the genera *Cylicostephanus, Cylicocyclus, Cyathostomum, Triodontophorus, Cylicodontophorus,* and *Gyalocephalus*); large roundworms (*Parascaris equorum*); and pinworms (*Oxyuris equi*) including various larval stages.

(3) *Limitations.* Administer by stomach tube in 3 to 4 pints of warm water, or by top dressing or mixing into a portion of the normal grain ration. Prepare individual doses to ensure that each animal receives the correct amount. Horses maintained on premises where reinfection is likely to occur should be re-treated in 6 to 8 weeks. Do not use in stallions at stud. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective November 25, 1980.

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

Dated: November 17, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36666 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 150

[T.D. 7732]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Tax Deposits and Refunds Based on the Net Income

Corrections

In FR Doc. 80.34427 appearing on page 73467 in the issue of Wednesday, November 5, 1980, on page 73469 columns two and three, the tables for Examples 1 and 2 should be printed as set forth below:

Example 1

Oct–Dec, 1980	Jan–Mar, 1981	Apr–June, 1981	July–Sept, 1981
$1,000	$800	$900	$900

Example 2

Oct–Dec, 1980	Jan–Mar, 1981	Apr–June, 1981	July–Sept, 1981
$1,000	$600	$800	$800

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Mount McKinley National Park; Mining, Climbing and Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete three regulations and to revise a fourth for Mount McKinley National Park, Alaska. The three regulations deleted are found in 36 CFR 7.44 (a), (b) and (e). They pertain to the registration of prospectors and miners, surface use of mineral land locations, and vehicle and traffic safety. The fourth regulation, found in 36 CFR 7.44(g) is revised. This action deletes unnecessary regulations and is intended to encourage the most liberal use of Mount McKinley National Park for recreation purposes consistent with 16 U.S.C. 347 *et seq.*

EFFECTIVE DATE: December 26, 1980.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mount McKinley National Park, P.O. Box 9, McKinley Park, Alaska 99755, Telephone: (907) 683–2294.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this action is to delete those subsections of the special regulations for Mount McKinley National Park which are now either adequately covered by other parts of this Chapter or are no longer necessary to provide for protection of park resources and visitor safety. No new regulations are promulgated.

The Mining in the Parks Act of September 28, 1976; 90 Stat. 1342 (16 U.S.C. 1901 *et seq.*) and subsequent promulgation of regulations contained in 36 CFR Part 9 Subpart A, created a comprehensive body of regulations governing mining and mining claims in all units of the National Park System. Prior regulations specific to Mount McKinley are now duplicative,

confusing, and serve no valid function. Deletion of 36 CFR 7.44(a) and 36 CFR 7.44(b) clarifies this situation.

Changes in climbing activities within Mount McKinley National Park have taken place in recent years which make portions of 36 CFR 7.44(g)(1) and all of 36 CFR 7.44(g)(2) and 36 CFR 7.44(g)(3) unnecessary. Regulations governing mountain climbing within the park were first enacted in 1959 (24 FR 11049) and relaxed in 1970 (35 FR 13017). Since 1970 the annual number of total climbers has increased over 400 percent. In addition, better and more sophisticated equipment, techniques, and clothing, have reduced the need for regulated safety considerations. For example, while two-way radio communications is still an advisable precaution for any climbing party, the greater number of climbers and ready availability of citizen's band radios makes a regulated precaution requiring radio communications capability with Park Headquarters unnecessary. Registration for climbing Mount McKinley and Mount Foraker is retained as requirement since it affords a necessary level of safety for both climbers and potential rescue parties should a search be warranted.

Vehicle and traffic safety regulations are found in 36 CFR Part 4. Specific regulations governing vehicle speed limits (36 CFR 4.17) and load limitations (36 CFR 4.11) as well as the completion of State Highway No. 3 which passes through the park and connects Anchorage, Alaska and Fairbanks, Alaska make 36 CFR 7.44(e) obsolete.

Public Participation on the Proposed Rules

The National Park Service published proposed rules addressing changes in the regulations governing Mount McKinley National Park on May 15, 1980 (45 FR 34759). The period for public comment closed on June 23, 1980.

The National Park Service received eleven timely comments on its proposal. Of these, ten comments were from private individuals and one comment was from an organization. All comments addressed the relaxation of climbing regulations. None addressed the deletion of mining or vehicle and traffic safety regulations.

The Service has carefully considered each of these comments. The comments received and the Service's reasons for accepting or rejecting the comments are as follows:

1. A majority of the commenters recommended that more stringent regulations on climbing activities be enacted. These recommendations included requiring checks of equipment, proof of climbing ability or experience, proof of physical fitness, and two-way radios. At various times since 1959 all of these requirements have been in effect. As these regulations have been relaxed there has been no significant increase in the number of search and rescue missions required which is directly attributable to any change in regulations. As previously mentioned, the need for adequate communications once satisfied by a requirement for two-way radios is now satisfied by citizen's band radios and a greatly increased number of climbers in the area. Objective criteria for evaluating equipment, physical fitness, and climbing experience which is applicable to high altitude conditions on Mount McKinley and Mount Foraker is difficult to develop and administer. The National Park Service now stations two Park Rangers, who have extensive mountain climbing experience, at Talkeetna, Alaska throughout the climbing season. One of their primary duties is to contact climbing parties prior to their climb and advise them of high altitude conditions as well as equipment, physical fitness and experience recommendations. Where a non-regulatory approach such as this can satisfy a need, regulation is unwarranted.

2. Nine commenters suggested requiring that all climbers provide evidence of financial means or post a bond to cover the costs of search, rescue, recovery and/or medical attention if required. Search and Rescue activities are provided throughout the State of Alaska and the National Park Service without charge to the victim. This policy applies equally to mountain climbers, hikers, campers, aircraft pilots and passengers, and motorists. The National Park Service does not have the legislated authority to reimburse search and rescue funds through charges to victims. The implications of charging individuals for public safety services which are generally regarded to be an obligation of government go far beyond the issue of mountain climbing at Mount McKinley and are currently being investigated on a servicewide basis. Until those implications are fully considered the current policy will remain in effect.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an Environment Impact Statement.

Drafting Information

The following persons participated in writing these regulations: Frank Betts, former Superintendent, and Gary Brown, Chief Ranger, Mount McKinley National Park; and William F. Paleck, Alaska Area Office.

Authority

(Section 3, Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), sec. 5, Act of February 26, 1917 (39 Stat. 938 as amended; 16 U.S.C. 351), 245 DM 1 (44 FR 23384) as amended, and National Park Service Order No. 77 (38 FR 7478), as amended; and Alaska Regional Order No. 1 (43 FR 11613))

Robert C. Cunningham,

Superintendent.

In consideration of the foregoing, § 7.44 of Title 36 Code of Federal Regulations is hereby revised as follows:

§ 7.44 Mount McKinley National Park, Alaska.

(a) *Fishing limit of catch and in possession.* The limit of catch per person per day shall be 10 fish but not to exceed 10 pounds and one fish, except that the limit of catch of lake trout (mackinaw) per person per day shall be two fish including those hooked and released. Possession of more than one day's limit of catch by one person at any one time is prohibited.

(b) *Special wildlife protection area.* The area within one mile of the park road (Denali Highway) between milepost 37 and milepost 42 (Sable Pass area) is closed to photographers, hikers, and other park visitors except as may be specifically authorized by the Superintendent. Observations and photography of wildlife and other features are permitted from the road shoulders and designated turnouts.

(c) *Motorboats.* Motorboats are prohibited on all the ponds, lakes and streams of Mount McKinley National Park.

(d) *Mountain Climbing.* Registration is required in advance on a form provided by the Superintendent for climbing Mount McKinley and Mount Foraker.

(e) *Aircraft operations.* Aircraft shall be operated within the park as provided in § 2.2 of this chapter, except as hereinafter specified:

Landing of aircraft shall be permitted on the airstrip locally known as the McKinley Park Station Airport, located in secs. 3 and 4, T. 14 S., R. 7 W; and Secs. 33 and 34, T. 13 S., R. 7 W., Fairbanks Meridian.

[FR Doc. 80-36695 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-FRL-1627-4]

Approval and Promulgation of Implementation Plans; Revised Deadline for Submission of Volatile Organic Compound (VOC) RACT Regulations for Set II CTG Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans for areas that have not attained the national ambient air quality standards. For States with ozone nonattainment areas, EPA has stated that the minimum acceptable level of ozone control includes RACT requirements for sources of volatile organic compound (VOC) emissions for which EPA has published a control technique guideline (CTG) by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Set II CTGs) are due July 1, 1980 (44 FR 50371 August 28, 1979). However, because the States' regulatory processes are taking longer than anticipated, but in most cases, good faith efforts are being made to adopt the necessary regulations, EPA is revising the July 1, 1980 deadline to January 1, 1981. EPA is also clarifying that it will disapprove any State plan for ozone if the State fails to submit the necessary RACT regulations for Set II CTG sources by January 1, 1981.

The statutory restriction on construction and modification of major VOC sources will be in effect for areas with disapproved ozone SIPs. If the necessary RACT regulations are adopted and submitted to EPA by January 1, 1981, EPA will review the regulations and take appropriate action to approve, conditionally approve, or disapprove them.

EFFECTIVE DATE: December 26, 1980.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA Regional Office listed at 44 FR 20372 (April 4, 1979) or the following Headquarters office: G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711 (919/541-5226 or 5365).

SUPPLEMENTARY INFORMATION: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans (SIPs) for all areas that have not attained the national ambient air quality standards (NAAQS). Each State was to submit a SIP revision by January 1, 1979, providing for the attainment of the primary NAAQS as expeditiously as practicable, but no later than the end of 1982 (or the end of 1987 for areas with particularly difficult ozone or carbon monoxide problems). Congress also provided that if, after July 1, 1979, a State did not have a revised plan approved by EPA that satisfied the requirements of Part D, there would be a statutory restriction on major new construction and modification of sources until the plan satisfied the requirements of Part D. This statutory restriction on major new sources and modifications is set forth in Section 110(a)(2)(I) of the Act. EPA published an interpretive rule codifying this statutory restriction in the Code of Federal Regulations and the SIPs (44 FR 38471 July 2, 1979).

The requirements for an approvable SIP are set forth in Section 110 and Part D of the Act. The Administrator's memorandum of February 24, 1978, published in the **Federal Register** at 43 FR 21673 (May 19, 1978), summarized the elements that an approved SIP must have in order to meet the requirements of Part D and lift the statutory growth restrictions. EPA also published a General Preamble for Proposed Rulemaking and Approval of State Implementation Plan Revisions for Nonattainment Areas summarizing the major considerations guiding EPA's evaluation of nonattainment area plan revisions. EPA published the General Preamble in order to assist the public in commenting on the approvability of the State SIP revisions (44 FR 20372 April 4, 1979). See also supplements to the General Preamble published at 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).

For areas not attaining the ozone NAAQS, the Administrator's memorandum and the General Preamble state that, at a minimum, the stationary source portion of an approvable ozone SIP revision must include legally enforceable regulations that reflect the application of reasonably available control technology (RACT) to those VOC sources for which EPA has published a control technique guideline (CTG) by January 1978 and provision for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980 for these sources covered by CTGs that have been published by January of the preceding year. RACT requirements for sources covered by the CTGs issued between January 1978 and January 1979 (Set II CTGs) were to be adopted and submitted to EPA by January of 1980. However, on August 28, 1979, EPA revised the deadline for submission of the RACT regulations for Set II CTG sources when it became apparent that the regulatory adoption process was going to take longer than originally anticipated (44 FR 50371). EPA notified States that plan revisions setting forth RACT regulations for the following Set II CTG sources were due by July 1, 1980.

Factory Surface Coating of Flatwood Paneling
Petroleum Refinery Fugitive Emissions (Leaks)
Pharmaceutical Manufacture
Rubber Tire Manufacture
Surface Coating of Miscellaneous Metal Parts and Products
Graphic Arts (Printing)
Dry Cleaning, Perchloroethylene
Gasoline Tank Trucks, Leak Prevention
Petroleum Liquid Storage, Floating Roof Tanks

EPA also codified the requirement for future VOC RACT regulations by adding the following language to the Part 52 "Approval Status" section of each State SIP.

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

In most cases, available information indicates that the States are making good faith efforts to adopt and submit the necessary regulations. But the States' regulatory adoption processes have taken even longer than anticipated and more time is necessary to accomodate public, administrative, and legislative review. For these reasons, EPA is revising the deadline to January 1, 1981. However, EPA is also clarifying that it will disapprove any ozone SIP if the necessary Set II CTG RACT regulations are not adopted and submitted to EPA by January 1, 1981.

If a State fails to submit the regulations required by this rule to be submitted by January 1, 1981, EPA will disapprove the State's SIP by publishing a final action in the **Federal Register**. Prior proposal of a disapproval will not be necessary since interested parties will have known of this requirement,

because the disapproval should not be delayed, and because the EPA action will be essentially ministerial. Disapproval of a SIP means that if a State's Part D ozone SIP has been previously approved and the statutory restriction on construction and modification of major VOC Sources has been lifted, the statutory restriction would be reinstated and would remain in effect until the necessary regulations are adopted and submitted to EPA.

In previous guidance to EPA Regional Offices, the Agency had indicated that growth restrictions would remain in effect for areas which had not submitted regulations by January 1, 1981, until final rulemaking was published approving or conditionally approving the regulations. Concerns were raised by States that this approach was inequitable since a short delay in the submittal of regulations could result in growth restrictions for an extended period of time. Accordingly, the Agency has revised this portion of the policy to remove growth restrictions as soon as the Agency publishes a notice of receipt in the **Federal Register.**

If EPA has not yet acted on a State's plan or has disapproved the plan, the statutory restriction is already in effect and would remain in effect until all plan deficiencies are corrected. If a State adopts and submits to EPA the Set II CTG RACT regulations by January 1, 1981, EPA will review the regulations and take appropriate action to approve, conditionally approve, or disapprove this portion of the plan. If a plan is disapproved, the statutory restriction would then be in effect.

EPA finds that there is good cause for making this deadline revision a final action without prior notice and comment. EPA summarized the requirements for an approvable ozone SIP and the need for future CTG RACT regulations in the Administrator's memorandum (43 FR 21673 May 19, 1978) and the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20372 April 4, 1979). The public therefore has had an opportunity to comment on the Agency's ozone SIP policy as well as on the deadline for submission of the Set II CTG RACT regulations in each of EPA's actions on individual State plans. In addition, delaying revision of the deadline in order to provide for public comment would result in unnecessary hardship due to uncertainty by States that are making good faith efforts to adopt and submit these regulations. Extension of the deadline is necessary because of unavoidable delays in State regulatory processes. It is therefore important for EPA to take timely action to revise the deadline. Morever, revision of the deadline for submission of Set II CTG regulations will not jeopardize attainment of the ozone standards within the statutory time frame. For these reasons, further public procedures are unnecessary, impractical, and contrary to the public interest.

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. [Sections 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502).]

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by adding the following section:

§ 52.25 Date for Submission of Set II CTG Regulations.

Wherever the "Approval Status" section of a subpart states that continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements for sources covered by CTGs issued between January 1978 and January 1979 (Set II CTGs) by July 1, 1980, the date for adoption and submittal of Set II CTG regulations is revised to read January 1, 1981.

[FR Doc. 80-36703 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 81

[A-6-FRL 1680-6]

Designation of Areas for Air Quality Planning Purposes: State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice revises the attainment status designations in the State of Texas for 10 areas with respect to total suspended particulate matter (TSP). Three areas are being redesignated from nonattainment to attainment and seven areas from nonattainment to unclassified. These revisions were proposed in a Notice of Proposed Rulemaking published on October 12, 1979 (44 FR 58922).

DATE: Effective on November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

Section 107(d)(1) of the Clean Air Act required the States to submit to the Administrator a list identifying all air quality control regions, or portions thereof, that have not attained the National Ambient Air Quality Standards (NAAQS). Section 107(d)(2) of the Act required the Administrator to promulgate this list with such modifications as deemed necessary. On March 3, 1978, at 43 FR 9037, the Administrator promulgated nonattainment designations for the State of Texas for total suspended particulates (TSP), and other pollutants. These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations. The Act also provided that a State may, from time to time, review and revise its designations list and submit these revisions to the Administrator for promulgation, as specified under Section 107(d)(5). The State of Texas has revised its original designation list and on April 6, 1979, submitted these revisions to the EPA in TACB Resolution R79-2. EPA published a notice of proposed rulemaking on October 12, 1979 and solicited public comment. No comments were received regarding these redesignations. EPA is, today, approving the following redesignations for Texas.

Particulate Matter

The changes listed by the State and being approved by EPA for TSP are as follows:

A. Change from "Does Not Meet Primary Standards" to "Better Than National Standards."

1. Limited areas in Hidalgo County.

2. Limited area in Maverick County.

B. Change from "Does Not Meet Primary Standards" to "Cannot Be Classified."

1. Limited area in Galveston County.

2. Limited area in Bexar County.

3. Under "Limited areas in Harris County," Houston 3[1] is redesignated as noted above.

4. Under "Limited area in El Paso County," El Paso 3[1] is redesignated as noted above.

C. Change from "Does Not Meet Secondary Standards" to "Cannot Be Classified."

1. Under "Limited area in Tarrant County," Fort Worth 2, Fort Worth 3, and Fort Worth 4 are redesignated as noted above.

The areas which were originally designated as nonattainment for primary TSP standards and are being redesignated to attainment are as follows: in Hidalgo County, a portion of the City of McAllen and a portion of the City of Progresso, and in Maverick County, the City of Eagle Pass. The State revised the designations for these three areas to attainment status since they meet the criteria of the Agency's Rural Fugitive Dust Policy (RFDP).

The areas which were originally designated as nonattainment for primary TSP standards and are being redesignated to "Cannot Be Classified" are as follows: in Galveston County, a portion of Texas City; in Bexar County, a portion of the City of San Antonio; in Harris County, Houston 3; and, in El Paso County, El Paso 3. The areas originally designated as nonattainment for secondary TSP standards and being redesignated to "Cannot Be Classified" are as follows: in Tarrant County, Fort Worth 2, Fort Worth 3, and Fort Worth 4. The State revised the designations for these seven areas to "Cannot Be Classified" on the basis that the monitors were located at ground level and unduly influenced by reentrained road dust.

Current Action

EPA is hereby approving the revisions to the attainment status designations for TSP submitted by the State of Texas under TACB Resolution R79–2. As a result of these redesignations, the requirements of Title I, Part D of the Act, no longer apply in the redesignated areas. All other Section 107 designations for the State of Texas not discussed in this notice remain intact.

These redesignations are being made immediately effective in order to lift the growth restrictions applying in nonattainment areas for which SIP revisions required by Part D of the Clean Air Act have not been submitted by the State and approved by EPA.

Under Section 307(b)(1) of the Clean Air Act, judicial review of (this 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]. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

This notice is issued under the authority of Sections 107(d), 171(2) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7407(d), 7501(2) and 7601(a).

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.344 [Amended]

1. In § 81.344—Texas, the attainment status designation table for TSP is amended to read as set forth below:

Texas—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 022				X
AQCR 106				X
AQCR 153:				
3 limited areas in El Paso County	X			
1 limited area in El Paso County		X		
1 limited area in El Paso County (El Paso 3)			X	
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213: 2 limited areas in Cameron County	X			
Remainder of AQCR				X
AQCR 214: 2 limited areas in Nueces County	X			
Remainder of AQCR				X
AQCR 215:				
2 limited areas in Dallas County	X			
1 limited area in Tarrant County		X		
3 limited areas in Tarrant County			X	
Remainder of AQCR				X
AQCR 216:				
2 limited areas in Harris County (Houston 1 and 2)	X			
1 limited area in Harris County (Aldine)		X		
1 limited area in Harris County			X	
1 limited area in Galveston County			X	
Remainder of AQCR				X
AQCR 217: 1 limited area in Bexar County			X	
Remainder of AQCR				X
AQCR 218				X

[FR Doc. 80–36704 Filed 11–24–80; 8:45 am]

BILLING CODE 6560–38–M

[1] This notation was used by the State of Texas in their original designations to differentiate among the various nonattainment areas within one county. For example, in Harris County, three areas within the city of Houston were designated as nonattainment, i.e. Houston 1, Houston 2, and Houston 3. In El Paso County, five areas within the city of El Paso were designated as nonattainment, i.e. El Paso 1, El Paso 2, El Paso 3, El Paso 4, and El Paso 5.

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40 CFR Part 86

[EN–FRL 1674–1]

Corrected Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Diesel Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document makes three corrections to the rule previously published in conjunction with my second consolidated waiver decision, which granted waivers for certain engine families pursuant to section 202(b)(6) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(1977).[1] The principal change is to correct inaccurate descriptions identifying the Volkswagen (VW) engine families that received waivers in that decision. The other two corrections are also technical in nature.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Schwartz, Attorney/Advisor, Manufacturers Operations Division (EN–340), U.S. Environmental Protection

[1] 45 FR 34718 (May 22, 1980).

Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: On February 11, 1980, when VW reapplied for waivers of the statutory 1.0 grams per mile (gpm) NO_x standard,[2] it split the three vehicle classes for which it requested a waiver in its original application into six smaller classes according to method of aspiration, engine displacement, and vehicle model. VW stated its purpose was to indicate its belief that for these vehicles, the higher inertia weight classes require a higher NO_x standard.[3] At the public hearing EPA held to consider VW's reapplication, VW agreed that it was reasonable for me to describe the engine families with a system of designation other than one based on vehicle model. Because NO_x emissions can vary with inertia weight, I decided upon the inertia weight classes which VW specified in its application as appropriate engine family designators in my decision to grant waivers covering each of those engine families.[4]

In a letter of August 4, 1980, to the Director of the Manufacturers Operations Division, VW indicated that a discrepancy had arisen between the inertia weights of the engine families described in the waiver decision as being covered by waivers, and the inertia weights of the families it actually plans to produce, because in its reapplication some equivalent test weights were mistakenly included under the heading of "Inertia Weight." For the 1.6L-NA-2500 I.W. (Dasher) engine family, the equivalent test weight of the engine family which VW plans to produce is 2,625 pounds, which happens to fall within the 2,500 pound inertia weight class designated for that engine family in the decision.[5] As a result, the designation of this engine family in the waiver decision accurately describes the engine family which VW plans to produce.

For the 2.0L-NA-3250 I.W. and 2.0L-TC-3250 I.W. (Audi) engine families listed in the waiver decision, however, the inertia weight designation VW provided in its waiver application and consequently, in my decision—3,250 pounds—is actually an equivalent test weight, whose corresponding inertia weight class is 3,000 pounds. The 1.6L-NA-2375 I.W. and 1.6L-TC-2375 I.W. (Rabbit), and the 1.6L-TC-2625 I.W. (Dasher) engine families listed in the waiver decision are also labeled with inertia weight class designations which actually are equivalent test weights that also fall into different inertia weight classes than those listed in the decision.

Accordingly, the inertia weight classes actually covered by the waivers I granted to VW should be the inertial weight classes corresponding to the equivalent test weights VW mistakenly submitted in its reapplication. That is because I based the conclusions I reached in determining whether to grant waivers for the VW engine families in question on information in VW's reapplication pertaining to pre-production vehicles which actually belonged to those different inertia weight classes. This correction to the rule accompanying the decision which granted the waivers VW requested will describe the engine families for which VW actually intended to request waivers at the time it submitted its reapplication to EPA and whose emissions characteristics I actually evaluated in considering these requests. Thus, this correction has no substantive effect on the bases of the determinations I made in deciding to grant these waivers.

The following chart contains the corrected engine family designations, with the previous "inertia weight" designations submitted by VW indicated in parentheses:

Engine family	Model year	Interim standard (gpm)
1.6L-NA-2250 (previously 2375) I.W.	1981, 1982	1.3
1.6L-NA-2500 (previously 2500) I.W.	1981	1.4
2.0L-NA-3000 (previously 3250) I.W.	1981, 1982	1.5
1.6L-TC-2250 (previously 2375) I.W.	1982	1.3
1.6L-TC-2500 (previously 2625) I.W.	1982	1.4
2.0L-TC-3000 (previously 3250) I.W.	1982	1.5

This amended rule also contains technical corrections reorganizing this section so as to separately designate standards for 1981 and 1982 model years, consistent with the latest version of this section published at 45 FR 40030 (June 12, 1980). In addition, this amended rule corrects a model year designation for the Daimler-Benz AG 2.4 liter engine family which received a waiver in my first consolidated NO_x waiver decision [6] and was mislabeled in the rule published in conjunction with my second consolidated NO_x waiver decision.

Because the changes being made are not substantive in nature but are technical revisions designed to avoid possible confusion and to bring the regulations into the proper regulatory format, the Agency finds good cause in accordance with 5 U.S.C. 553(b)(B) and (d)(3) to publish this rule as final and effective immediately.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and 1977 and Later Model Year New Heavy-Duty Engines

1. 40 CFR 86.081-8(a)(1)(iii) is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corp.	5.7 liter (L)	1981	1.5
Daimler-Benz AG	2.4L	1981	1.5
	3.0L naturally aspirated (NA)	1981	1.5
	3.0L turbocharged (TC)	1981	1.5
AB Volvo	2.4L NA	1981	1.5
Peugeot	2.3L-TC-XD2S	1981	1.5

[2] I denied VW's first NO_x waiver application in a decision published at 45 FR 3480 (January 23, 1980).

[3] Transcript of February 27, 1980 Public Hearing on the Waiver of the 1981-1984 Model Year Light-Duty Diesel NO* Emission Standards, pp. 65-66.

[4] 45 FR 34718, 34721 (May 22, 1980).

[5] See 40 CFR 86.129-80 (1979) for the inertia weight classes that correspond with various equivalent test weights.

[6] 45 FR 3480 (January 23, 1980).

Manufacturer	Engine family	Model year	NO_x (gpm)
Volkswagen AG	1.6L-NA-2,250 pounds inertia weight (IW).	1981	1.3
	1.6L-NA-2,250 I.W	1981	1.4
	2.0L-NA-3,000 I.W	1981	1.5

2. 40 CFR 86.082-8(a)(1)(iii), is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corp	5.7 liter (L)	1982	1.5
Daimler-Benz AG	2.4L	1982	1.25
	3.0L naturally aspirated (NA).	1982	1.5
	3.0L turbocharged (TC).	1982	1.5
AB Volvo	2.4L NA	1982	1.5
Peugeot	2.3L-TC-XD2S	1982	1.5
Volkswagen AG	1.6L-NA-2,250 pounds inertia weight (IW).	1982	1.3
	2.0L-NA-3,000 I.W	1982	1.5
	1.6L-TC-2,500 I.W	1982	1.3
	1.6L-TC-2,250 I.W	1982	1.4
	2.0L-TC-3,000 I.W	1982	1.5

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a) (Supp. I 1977))

[FR Doc. 80-36731 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18 (Part 12)

[Procurement Regulation Directive 80-8]

Regulatory Coverage of the Service Contract Act.

November 17, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments to Part 12, Subpart 10, concerning the Service Contract Act and to bring this Subpart into closer alignment with the Defense Acquisition Regulation.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT:

James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION:

Following are key changes that are made in this Procurement Regulation Directive:

a. The Fair Labor Standards Act and Service Contract Act—Price Adjustment Clause (NPR 12.1050-2) is changed to conform with the same clause in Defense Acquisition Regulation.

b. A requirement is added that both the contractor and bargaining agents will be notified of the pending acquisition 30 days prior to solicitation if the Contracting Officer is aware, or has reason to believe, that the incumbent contractor of a subcontractor has negotiated, or is negotiating, a collective bargaining agreement with an agent representing employees performing on the contract.

c. A requirement is added that rates and benefits will be included in a contract attachment for contractor employees who would be subject to 5 U.S.C. 5332 (GS Grades) if they worked for the Federal Government. This requires the GS classifications to be included on the S.F. 98/98a.

d. This document supersedes NASA Procurement Regulation Directives 73-8 (41 CFR Ch. 18, 1980 Edition, page 477) and 78-8 (41 CFR Ch. 18, 1980 Edition, page 602).

Authority: The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

L. E. Hopkins,

Acting Director of Procurement.

1. In Part 12, Table of Contents, Subpart 10 is revised to read as follows:

Subpart 10—*Service Contract Act of 1965*

Subparts 11 and 12—*[Reserved]*

2. In Part 12, Subpart 10 is revised to read as follows:

Subpart 10—Service Contract Act of 1965

12.1000 Scope of Subpart. This Subpart sets forth policies and procedures for carrying out the provisions of the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.); the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), as they pertain to service contracts: the implementing regulations prescribed in 29 CFR Parts 4 and 1925; and instructions issued by the Secretary of Labor.

12.1001 Statutory Requirements. The Service Contract Act of 1965, referred to in this Subpart as the "Act", includes the following general requirements with respect to service contracts entered into by Federal agencies:

(i) Regardless of the contract amount, no contractor or subcontractor holding a Federal service contract shall pay any employee engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.);

(ii) Federal service contracts in excess of $2,500 shall contain the provisions required by the Act with respect to such matters as minimum wages, including fringe benefits, to be paid the various classes of service employees engaged in the performance of the contract, safe and sanitary working conditions, notification to employees of the compensation required under the Act, and wages they would be paid if employed by the Federal Government;

(iii) Successor contractors performing on contracts in excess of $2,500 must pay wages and fringe benefits at least equal to those agreed upon for substantially the same services in any bona fide collective bargaining agreement entered into by the predecessor contractor (unless such wages and fringe benefits are determined to be substantially at

variance with those which prevail for services of a similar character in the locality);

(iv) Service contractors performing on contracts in excess of $2,500 to which no predecessor contractor's collective bargaining agreement applies, shall pay their employees at least the wages and fringe benefits found by the Department of Labor to prevail in the locality or, in the absence of a wage determination, the minimum wage set forth in the Fair Labor Standards Act; and

(v) See 12.1002–50 for statutory exemptions and 12.1002–51 for regulatory exemptions.

12.1002 Applicability.

12.1002–1 General. Subject to statutory exemptions or administrative exemptions by the Secretary of Labor under section 4(b) of the Act (41 U.S.C. 353), the Act applies to all Federal contracts (and any bid specification therefore), the principal purpose of which is to furnish services in the United States through the use of service employees.

12.1002–2 Geographical Coverage of the Act.

(a) Inside the United States, the Act is applicable to all service contracts irrespective of amount.

(b) Outside the United States, the Act is not applicable.

12.1002–3 Definitions and Types of Covered Service Contracts Illustrated.

(a) *Definitions.* For this Subpart, unless otherwise indicated, terms used herein are defined as follows:

(i) "Administrator" means the Administrator of the Wage and Hour Division, United States Department of Labor, or the Administrator's authorized representative.

(ii) "Contract" includes any contract subject wholly or in part to provisions of the Act and any subcontract at any tier thereunder.

(iii) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act.

(iv) "Professional Employee" is not restricted to the traditional professions of law, medicine, and theology. It includes those professions that have a recognized status and that are based on the acquirement of professional knowledge through prolonged study. Title 29, Part 541, Code of Federal Regulations, defines the term "professional employee" and provides a listing of occupations generally considered to be held by professionals.

(v) "Service Employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR, Part 541); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(vi) "United States" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

(vii) "Wage Determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of section 2(a) and 4(c) of the Act (41 U.S.C. 351 and 353) for application to the employment in a locality of any class or classes of services employees in the performance of any contract in excess of $2,500 that is subject to the provisions of the Act.

(b) *Types of Covered Service Contracts Illustrated.* Types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act.

(i) Aerial spraying.

(ii) Aerial reconnaissance for fire detection.

(iii) Ambulance service.

(iv) Cafeteria and food service.

(v) Chemical testing and analysis.

(vi) Clothing alteration and repair.

(vii) Custodial and janitorial services.

(viii) Drafting and illustrating.

(ix) Electronic equipment maintenance and operation.

(x) Flight training.

(xi) Fire fighting and protection.

(xii) Geological field surveys and testing.

(xiii) Grounds maintenance.

(xiv) Guard and watchman security service.

(xv) Landscaping (other than part of construction).

(xvi) Laundry and dry cleaning.

(xvii) Linen supply service.

(xviii) Lodging and meals.

(xix) Mail hauling.

(xx) Maintenance and repair of motor equipment.

(xxi) Maintenance and repair of all types of equipment.

(xxii) Miscellaneous housekeeping.

(xxiii) Mortuary services.

(xxiv) Motor pool operation.

(xxv) Packing and crating.

(xxvi) Parking service.

(xxvii) Snow removal.

(xxviii) Stenographic reporting.

(xxix) Support services at installations.

(xxx) Taxicab services.

(xxxi) Tire and tube repairs.

(xxxii) Transporting property or personnel (except as explained in 29 CFR 4.118).

(xxxiii) Trash and garbage removal.

(xxxiv) Warehouse or storage.

12.1002–50 Statutory Exemptions. Each of the following transactions is exempt from the Service Contract Act of 1965, as amended, by its terms:

(a) *Contracts for Construction or Repair.* Any contract of the United States for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(b) *Work Under the Walsh-Healey Public Contracts Act.* Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act. (49 Stat. 2036);

(c) *Contracts for the Carriage of Freight or Personnel.* Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect;

(d) *Contracts for Communication Services.* Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(e) *Contracts for Public Utility Services.* Any contract for public utility services, including electric light and power, water, steam, and gas;

(f) *Employment Contracts.* Any employment contract providing for direct services to a Federal agency by an individual or individuals; and

(g) *Operation of Postal Contract Stations.* Any contract with the U.S. Postal Service, the principal purpose of which is the operation of postal contract stations.

12.1002–51 Administrative Limitations, Variations, Tolerances, and Exemptions. The Secretary of Labor may, under the Act, provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Act (except Section 10) as may be necessary and proper in the public interest or to avoid serious impairment of the conduct of

Government business (41 U.S.C. 353(b)). Requests for variations, tolerances, and exemptions from the Act shall be submitted in writing through contracting channels to the Industrial Relations Office, NASA Headquarters (Code NR–31).

12.1003 Department of Labor Regulations. Pursuant to the Service Contract Act of 1965, as amended, the Department of Labor has issued Parts 4 and 1925, and Part 6, Title 29, Code of Federal Regulations, providing for the administration and enforcement of the Act. The regulations include coverage of the following matters relating to the requirements of the Act:

(i) service contract labor standards provisions and procedures (Subpart A, Part 4 (29 CFR));

(ii) equivalents of determined fringe benefits (Subpart B, Part 4 (29 CFR));

(iii) application of the Service Contract Act of 1965, as amended, (rulings and interpretations) (Subpart C, Part 4 (29 CFR));

(iv) safe and sanitary working conditions (Part 1925 of Title 29, CFR); and

(v) rules of practice for administrative proceedings enforcing service contract labor standards (Part 6 of Title 29, CFR).

12.1004 Contract Clauses.

(a) *Clauses for Federal Service Contracts in Excess of $2,500.* Procurement offices (except as provided in 12.1002–50 and 12.1002–51) shall include the following clause in all solicitations which may result in contracts in excess of $2,500 and in contracts in excess of $2,500 (including any transaction for an indefinite amount unless the procurement office has knowledge that it will not exceed $2,500) where the principal purpose of the contract is to furnish services in the United States through the use of service employees:

Service Contract Act of 1965—As Amended (November 1980)

This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) (hereafter referred to as the "Act"), applies, is subject to the following provisions of the Act and to the regulations of the Secretary of Labor thereunder (29 CFR Part 4).

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid no less than the minimum monetary wage and shall be furnished fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid monetary wages and furnished fringe benefits determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with a recommendation, to the Administrator of the Wage and Hour Division, Employment Standards Administration, of the Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or the Administrator's authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall be paid, in any event, less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) *Adjustment of Compensation.* If, as authorized pursuant to section 4(d) of the Act, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished to service employees shall be subject to adjustment after 1 year and no less than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration, Department of Labor, as provided in the Act.

(c) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor can only discharge the obligation to furnish fringe benefits specified in the attachment or conformed thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash, in accordance with the applicable rules set forth in 29 CFR, Part 4, Subparts B and C.

(d) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) *Successorship.* If this contract succeeds a contract subject to the Act, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued prospective wages and fringe benefits provided for under such agreement. No Contractor or Subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's representative (i) determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arms-length negotiations, or (ii) after a hearing, as provided in 29 CFR 4.10, finds that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality.

(f) *Notification to Employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the Service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR 1925.

(h) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, records containing the information specified below for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor.

(1) Employee's name and address.

(2) Employee's work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) Employee's daily and weekly hours worked.

(4) Any deductions, rebates, or refunds from employee's total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or the Administrator's authorized representative, pursuant to the labor standards in paragraph (a) of this clause. A copy of the report required in paragraph (m) of this clause shall be deemed to be such a list.

(i) *Withholding of Payment and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as the Contracting Officer, or an appropriate officer of the Department of Labor, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Act may be grounds for termination of the right to proceed with the contract work. In this event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) *Subcontractors.* The Contractor agrees to insert this clause in all subcontracts. The term "Contractor" as used in this clause in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) *Service Employee.* As used in this clause relating to the Act, the term "service employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR Part 541 and in any subsequent revisions of these regulations); and shall include all such persons, regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(l) *Federal Wage Board (Blue Collar) and General Schedule (White Collar) Wages and Fringe Benefits Applicable to Service Employee Classifications.* The classes of service employees set forth in an attachment to this contract expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and 5332 and would, if so employed, be paid not less than the rates of wages and fringe benefits set forth in such Attachment.

(m) *Contractor's Report.* If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. This report shall be made promptly as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(n) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement that is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report this fact to the Contracting Officer. The Prime Contractor also shall provide full information as to application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. This report shall be made upon commencing performance of the contract in the case of collective bargaining agreements effective at the time, and, in the case of agreements or provisions or amendments thereof effective at a later time during the period of contract performance, the agreements shall be reported promptly after negotiation.

(o) *Regulations Incorporated by Reference.* All interpretations of the Act expressed in Subpart C of 29 CFR Part 4 are incorporated by reference in this contract.

(p) *Exemptions and Limitations.* This clause shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the U.S. Postal Service, the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic puposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island. It does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country;

(9) Any of the following contracts exempted from all provisions of the Act, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Public Law 92–473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where the carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that the owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraph (a) through (o) of this clause, relating to the Act, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act (prior to its amendment by Public Law 92–473), found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, as amended, in regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525);

(ii) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, as amended, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938, as amended, (29 CFR Parts 520, 521, 524, and 525);

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulatons in 29 CFR Part 531: *Provided, however,* that the amount of such credit may not exceed 40% of the minimum rate specified in section 6(a)(1) of

the Fair Labor Standards Act of 1938, as amended.

Note.—The classes of service employees expected to be employed under the contract that would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5332 and the corresponding monetary wages and fringe benefits, will be set forth in an attachment to the contract, as required under paragraph (1) of the clause. The Attachment will specifically state that such wages and fringe benefits do not represent a minimum wage determination for the contract (see 12.1005–2(g)).

(b) *Clause for Federal Service Contracts Not in Excess of $2,500.* Procurement offices (except as provided in 12.1002–2, 12.1002–50 and 12.1002–51) shall include the following clause in every solicitation and contract not in excess of $2,500, which has as its principle purpose the furnishing of services through the use of service employees:

Service Contract Act of 1965, as Amended (November 1980)

Except to the extent that an exemption, variation, or tolerance would apply pursuant to 29 CFR 4.6 if this were a contract in excess of $2,500, the Contractor and any subcontractor hereunder shall pay all employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965, as amended, expressed by 29 CFR Part 4 are hereby incorporated by reference in this contract.

(c) *Basic Ordering Agreements and Blanket Purchase Agreements.* In the case of a basic ordering agreement or blanket purchase agreement, the amount for purposes of including (a) or (b) above, shall be the aggregate amount of all orders estimated to be placed for one year after the effective date of the agreement. If a basic ordering agreement continues or is extended, an estimate shall be made annually for each year after the first, and the agreement modified accordingly.

(d) *Price Adjustment Clause.* See 12.1050–2(b) for the "Fair Labor Standards Act and Service Contract Act—Price Adjustment" clause and instructions for its use.

12.1005 Administration and Enforcement.

12.1005–1 Responsibilities of Department of Labor. The Secretary of Labor is authorized and directed to administer and enforce the provisions of the Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act.

12.1005–2 Notice of Intention To Make a Service Contract.

(a) Prior to the issuance of any solicitation or commencement of negotiations for any new contract, contract extension, modification adding significant new work, or exercise of an option exceeding $2,500 which may be subject to the Act, the contracting office shall file notice of this intention. Contracts for an indefinite amount also require this notice unless the contracting officer has definite knowledge that it will not exceed $2,500. The notice will be filed on SF 98/98a "Notice of Intention To Make a Service Contract and Response To Notice." Any attachments necessary to support or clarify the notice will also be furnished. The notice will be filed with the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor, through the Industrial Relations Office, NASA Headquarters (Code NR–31). To avoid delays because of a late issuance of wage determinations by the Department of Labor in response to the notice, the contracting office shall make every effort to file it as early as possible; however, the original and 4 copies of the notice must be filed so as to reach NASA Headquarters (Code NR–31) at least 40 days prior to issuance of any solicitation or the commencement of negotiations. The SF 98/98a and attachments shall be completed pursuant to instructions on the forms and shall also contain the applicable information required by (b) and (c) below. Care must be taken to insure that all required information is provided to avert return without action by the Department of Labor or Code NASA Headquarters (NR–31). The "Response" portion of the original of the SF 98 will be completed by the Department of Labor and returned directly to the contracting office, advising of any determination of minimum monetary wage and fringe benefits applicable to the contract. Supplies of SF 98 and 98a are available in all GSA supply depots under stock numbers 7540–926–8972 and 7540–118–1008, respectively.

(b) The information requested by item number below shall be furnished, in addition to that required by the SF 98/98a.

(i) *Item 6.* Insert on the far left side of the block the applicable code identifying the type of proposed action:

Code	Proposed action
I	New contract.
II	Recompetition of services.
III	Contract modifications affecting the scope of the work (see 12.1005–8(a)).
IV	Extension of contract performance through exercise of an option or otherwise (see 12.1005–8(b)).
V	Other. An example of a contract fitting this category is a procurement for which the basic term exceeds 1 year. When a multiyear contract (funding is not subject to annual appropriation) is to be entered into, NASA Headquarters (Code NR–31) shall be notified at the time of submission of the required SF 98/98a.

(ii) *Item 8.*

A. If the proposed contract will be under Section 8(a) of the Small Business Act, insert both the Small Business Administration and the name of the minority subcontractor.

B. In all cases when there is an incumbent contractor, the contractor's wage rate ranges and current actual wage rates being paid to the various classes of non-exempt, unrepresented employees will be included as part of the wage data submitted.

C. When there is no incumbent contractor, furnish whatever information that is available on wages and fringe benefits currently being paid in the locality.

D. If no wage determination is currently available to the particular contract, insert "None" in 8.b.

(iii) *Item 10.* In addition to information requested, add the solication number, if known.

(iv) *Item 12. (SF 98a).*

A. When entering into a new service contract, all classes of work expected to be performed under the contract will be listed under this item, regardless of whether the class of employees is considered professional, executive, administrative, or hourly. However, if submission of the Standard Form 98/98a is in connection with any of the other proposed actions (recompetition of services, exercise of an option, etc.), list only the classes of work that the incumbent contractor indicates are "non-exempt."

B. When classifications include both those categories of employees covered by a collective bargaining agreement and those that are not represented by a union, distinguish the difference by marking the classifications that are unionized by an asterisk(s) sign (*).

C. If the classification of work is not known, use the most descriptive job title available for the work to be performed under the contract.

(v) *Item 13.* If the number of employees is not known, the estimated manhours required to perform the tasks should be designated so that manning estimates can be be determined and listed.

(vi) *Item 14.* This item shall also include the wage rates that would be

paid if the employees were subject to 5 U.S.C. 5332 (GS grades).

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed, and if the incumbent contractor is furnishing such services through the use of service employees whose wages and fringe benefits are the subject of one or more collective bargaining agreements, the contracting officer shall obtain from the contractor two copies of each collective bargaining agreement, together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement, and submit them with the SF 98/98a. If the services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply to all locations, the contracting officer shall identify the locations to which the agreements have application. See (f) below for notice to interested parties, which is required at least 30 days prior to issuance of the solicitation. (See 12.1005–3(c).) concerning collective bargaining agreements that are considered not to be entered into as a result of arms-length negotiations or that are at substantial variance with the wages and fringe benefits prevailing in the locality.

(d) If exceptional circumstances prevent the filing of the notice of intention by the time required in paragraph (a) above, the notice shall be submitted to the Department of Labor through Code NR–31 as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission.

(e) Requests to expedite issuance of wage determinations or to check the status of a particular request should be made to NASA Headquarters (Code NR–31). Direct contact with Department of Labor officials for this purpose is not authorized.

(f) *Notice to Interested Parties.* If, pursuant to paragraph (n) of the SCA clause or through other means, the contracting officer is aware or has reason to believe that the incumbent contractor or a subcontractor is negotiating or has consummated a collective bargaining agreement with a bargaining agent representing service employees performing on the contract, both the contractor and bargaining agent(s) shall be notified of the pending acquisition at least 30 days prior to (i) issuance of the solicitation, or (ii) the commencement of performance of a contract modification extending the initial period of performance or affecting the scope of effort or of an option. This notification shall be made by registered letter, return receipt requested and shall set forth all pertinent dates.

(g) Procedures for computation of the rates required by paragraph (1) of the SCA clause and the note following are as follows:

(i) Wages paid blue collar employees shall be the basic hourly rate for each class. The rate shall be Wage Board pay schedule step two for nonsupervisory service employees and step three for supervisory service employees. Determinations of applicable Wage Board rates are as follows:

A. Where the place of performance is known, the rates applicable to that location shall be used; or

B. Where the place of performance is not known, the rates applicable to the contracting activity's location shall be used.

(ii) Wages paid white collar employees shall be an hourly rate for each class. The rate shall be obtained by dividing the general pay schedule step one biweekly rate by 80.

(iii) Local civilian personnel offices can assist in determining and providing grade and salary data.

(iv) The Department of Labor develops standardized fringe benefits. The approved standard and any subsequent modification shall be furnished by Code NR–31.

12.1005–3 Contract Minimum Wage Determinations and Fringe Benefit Specification.

(a) Prior to Award. Solicitations and contracts for more than $2,500 shall contain an attachment (wage determination or appropriate revisions) issued by the Administrator in response to the notice required under 12.1005–2(a) setting forth the minimum wages and fringe benefits for service employees to be employed thereunder. However, wage determinations and revisions thereto shall not apply—

(i) When no collective bargaining agreement exists and wage determinations or revisions are received by the Federal agency less than 10 days before the opening of bids or date established for the receipt of proposals, unless the contracting officer finds that there is a reasonable time to notify bidder or offerors thereof; or

(ii) When a collective bargaining agreement does exist and (A) the contracting agency has received notice of its existence less than 10 days before bid opening or commencement of performance of a negotiated contract, option, or contract extension, and (B) the contracting officer determines that there is not reasonable time to incorporate a new wage determination in the solicitation, and (C) the notices required by 12.1005–2(a) and 12.1005–2(f) been given.

(b) *Subsequent to Award.* If a required wage determination is not included in the solicitation or contract (either because the notice required by 12.1005–2 (a) or (f) is not filed or is not filed in the time provided) and if the contracting officer receives a wage determination from the Department of Labor within 30 days of the late filing of the notice or the discovery by the Department of Labor of the failure to include a wage determination required by this part—

(i) The contracting officer shall attempt to negotiate a bilateral modification to:

(A) Incorporate the appropriate clause(s), if not previously included;

(B) Incorporate the wage determination which shall be effective as of the date of issuance unless otherwise specified; and

(C) equitably adjust the contract price to compensate for any increased cost of performance under the contract caused by the wage determination.

(ii) If the contracting officer is unable to negotate a contract modfication incorporating the wage determination, the contract file shall be documented to show the efforts made.

(iii) If the contracting officer questions the applicability of the Service Contract Act to the contract, the matter shall be forwarded for resolution to the Office of Industrial Relations. NASA Headquarters, Code NR–31.

(c) *Review of Collective Bargaining Agreements and Wage Determinations.*

(i) If a contracting officer believes that an incumbent contractor's collective bargaining agreement was not entered into as a result of arms-length negotiations, procedures in accordance with (iv) below shall be followed.

(ii) Immediately upon receipt of a wage determination not predicated upon a collective bargaining agreement, the contracting officer shall examine the wage determination to ascertain whether it is correct and whether it conforms with the wages and fringe benefits prevailing for services of a character similar in the locality. If the wage determination is at substantial variance with the prevailing rates, the contracting officer shall proceed in accordance with (iii) below.

(iii) A full statement of the facts shall be transmitted immediately to NASA Headquarters (Code NR–31) for appropriate action.

(iv) If wages and fringe benefits provided for in a collective bargaining agreement are substantially at variance

with those prevailing for services of a character similar in the locality, the contracting officer shall proceed as follows:

A. Review immediately the agreement to ascertain if a hearing (12.1051) is warranted.

B. Submit a request for hearing, when warranted, to NASA Headquarters (Code NR-31). Sufficient payroll data shall accompany this request to support a *prime facie* showing that the bargained-for rates, in fact, are substantially at variance with those prevailing for services of a character similar in the locality. Except under extraordinary circumstances, as determined by the Administrator, a request for hearing shall not be considered by the Secretary unless received by the Department of Labor more than 10 days before the award of an advertised contract or prior to the commencement of a negotiated contract or contract extension, through option or otherwise.

(d) *Late Receipt of Wage Determinations.* If the SCA wage determination requested in accordance with 12.1005-2(a) is not received in time for inclusion in the solicitation, the contracting officer should proceed using the latest wage determination included in the existing contract. If a new wage determination is subsequently received 10 or more days prior to the opening of bids or the date established for the receipt of proposals, the solicitation must be amended accordingly. However, if a new wage determination is received less than 10 days before the opening of bids or the date established for the receipt of proposals, it shall be included in the solicitation only when there is a reasonable time to notify offerors thereof. (See 12.1005-3(a).) The contracting officer shall notify NASA Headquarters (Code NR-31) in writing of each case when compelled to proceed without a new wage determination due to a delayed response from the Department of Labor.

12.1005-4 Additional Classifications of Service Employees (Comfortable Rates). When any classes of service employees which are to be engaged in the performance of the contract are not listed in the wage and fringe benefit determination attached to the contract (see paragraph (a) of the clause in 12.1004(a)), such employees shall be classified by the contractor so as to bear a reasonable relationship to the classification listed in the determination. The wages paid and the fringe benefits provided to employees so classified shall be determined by agreement between the interested parties. Such parties shall be deemed to be the contracting agency, the contractor, and the employees (or their representatives) who will perform under the contract. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable with the wage and fringe benefit determination, the contracting officer shall submit the question, together with a recommendation, to the Wage and Hour Division, Employment Standards Administration, Department of Labor, or an authorized representative, through the Office of Industrial Relations, NASA Headquarters. Code NR-31, for final determination.

12.1005-5 Notice of Award. Standard Form 99, "Notice of Award of Contracts," shall be used to report the award of any contract in excess of $2,500 subject to the Act to the Department of Labor. The report shall be submitted with the initial order under an indefinite delivery type contract or basic ordering agreement, or the initial call under a blanket purchase agreement, when they contain the clause in 12.1004(a). The completed original and one copy with the interleaved carbon shall be forwarded to the Administrator, Wage and Hour Division, Department of Labor, Washington, D.C. 20210. The form shall be completed as follows:

(i) Items 1 through 7 and 12 and 13: Self-explanatory:

(ii) Item 8: Enter the notation "Service Contract Act of 1965";

(iii) Item 9: Leave blank;

(iv) Item 10: (1) Enter the notation "Major Category," and indicate beside this entry the general service area into which the contract falls (e.g., food services, custodial-Janitorial service, garbage collection, insect and rodent control, laundry and dry cleaning services), and

(2) Enter the heading "Detailed Description," and following this entry set forth a detailed description of the services to be performed;

(v) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation "estimated" if the exact amount is not known. If neither the exact nor the estimated dollar value is known, enter "Indefinite," or "Not to exceed $———"; and

(vi) Item 14: Leave blank. Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540-634-4049.

12.1005-6 Department of Labor Form. The contracting officer shall furnish the contractor with Department of Labor Form WH publication 1313 (poster) at the time of contract award and shall ensure that the form is in the possession of the contractor for appropriate posting prior to performance of the contract. The form advises employees of their benefits under the Act and satisfies the notice requirements in paragraph (f) of the contract clause prescribed in 12.1004(a). Contractors are required to post the form at a prominent and accessible place at the worksite. Supplies of the form may be obtained from the Wage and Hour Division, Department of Labor, Washington, D.C. 20210.

12.1005-7 Inquiries Concerning the Act. Contractors or contractor employees who inquire concerning the administration and enforcement of the Act shall be advised that such matters fall within the jurisdiction of the Department of Labor and shall be given the address of the appropriate Regional Director of the Wage and Hour Division of the Department of Labor (see 12.607).

12.1005-8 Contract Modifications.

(a) *Bilateral Contract Modifications.* Generally, a bilateral contract modification affecting the scope of the work is regarded as a new contract for purposes of the Act and the regulations thereunder. Therefore, prior to entering into such modification, the contracting officer shall forward Standard Form 98/98a to NASA Headquarters (Code NR-31) in accordance with the procedure set forth in 12.1005-2(a), except that:

(i) In the "Estmated Solicitation Date" block, enter the date the information is needed; and

(ii) In Block 6, enter "Modification of Existing Contract for (*describe type of services*) * * * Services." Bilateral contract modifications that are unrelated to the labor requirements of a contract shall not be deemed to create a new contract for purposes of the Act, nor shall insignificant changes related to labor requirements.

(b) *Extension of Contract Through Exercise of Option or Otherwise.* A new contract shall be deemed entered into for purposes of the Act when the period of performance of an existing contract is extended pursuant to an option clause or otherwise. Prior to extending the period of performance of the contract, the contracting officer shall forward SF 98/98a as provided in (a) above.

12.1005-9 Withholding of Contract Payments and Contract Termination.

(a) *Withholding.*

(1) As provided by the Act, any violation of the stipulations required by the clauses (12.1004 (a) or (b)) renders the party responsible liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of the

contract. Upon the written request of the Department of Labor at a level no lower than an Assistant Regional Administrator, so much of the accrued payment due on the contract under which the violations occurred shall be withheld as is necessary to pay the employees under that contract or under any other contract between the Government prime contractor and the Federal Government, provided the other contract is not assigned pursuant to 31 U.S.C. 203 or 41 U.S.C. 15. Any withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the Head of a Federal agency or the Secretary has found to be due pursuant to the Act shall be paid directly to the underpaid employees from any accrued payments withheld under the Act.

(2) If the accrued payments withheld are insufficient to reimburse all underpaid service employees, the Government may bring an action against the contractor, subcontractor, or any contract sureties to recover the remaining amount of underpayments. Any sums thus recovered shall be held in the deposit fund and shall be paid, on order of the Secretary, directly to the underpaid employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) *Termination.* In addition, as provided by the Act, any failure to comply with the requirements of any of the provisions of the contract clauses set forth under 12.1004 may be grounds for termination, by written notice, of the contractor's right to proceed with the contract work. In this event, the Government may enter into other contracts or arrangements for completion of the work, charging the terminated contractor with any additional cost.

12.1005–10 Cooperation with the Department of Labor. The contracting officer shall cooperate with representatives of the Department of Labor in the examination of records, interviews with service employees, and all other aspects of investigations undertaken by the Department of Labor. When requested, agencies shall furnish to the Administrator, Wage and Hour Division, any available information with respect to contractors, subcontractors, their contracts and the nature of the contract services. Violations apparent to the contracting agency and complaints received shall be promptly referred to the appropriate regional office of the Department of Labor. In no event, however, shall complaints by employees be disclosed to the employer.

12.1005–11 Role of the Comptroller General. The Act provides that the Comptroller General shall distribute a list to all Federal agencies giving the names of persons or firms which have been found to be in violation of the Act. Unless the Secretary of Labor otherwise recommends, no Government contract shall be awarded to any violator so listed or to any firm, corporation, partnership or association in which such violator has a substantial interest until three years have elapsed from the date of publication of the list containing the name of the violator.

12.1005–50 Register of Wage Determination and Fringe Benefits. The regulations of the Department of Labor provide that the Administrator shall determine the minimum monetary wages and specify the fringe benefits to be furnished the various classes of service employees for the several localities in which they are to be employed under contracts subject to determinations under the Act (see 29 CFR 4.3). The regulations further provide that these determinations will be issued as an orderly series constituting a register of minimum wages and fringe benefits. The register will be available for public inspecton during business hours at the Wage and Hour Division, Employment Standard Administration, U.S. Department of Labor. In addition, copies will be made available on request at regional offices of the Wage and Hour Division.

12.1006 Labor Standards Enforcement Report. See 12.404–8.

12.1050 Extensions of Contract Performance Period.

12.1050–1 General. A number of NASA service contracts are written for a period of one year with an option on the part of the Government to renew the contract for additional one-year periods at the same or other price or rates. Since the exercise of an option results in the performance of services for a new or different period not included in the term for which the contractor is obligated to furnish services, or for which the Government is obligated to pay under the original contract in the absence of such action to extend it, the contract for the option (additional) period is within the contemplation of the Service Contract Act in the same position as a wholly new contract with respect to application of the Act's provisions and the regulations thereunder. (See 29 CFR 4.145.)

12.1050–2 Contract Price Adjustment.

(a) The following requirements shall apply to firm fixed-price contracts, time and material contracts, and labor-hour contracts which contain the clause in 12.1004(a) (i.e., contracts in excess of $2,500), and which provide for Government option renewal.

(1) *For Firm fixed-price contracts:*

(i) When the scope of work called for in the solicitation for the original contract period and any renewal option period is the same, the offeror shall be required by the solicitation to submit with the offer, and the Schedule of any resulting contract shall contain, a *single* listing of the classes of service employees subject to the Service Contract Act, and the number of labor hours to be supplied by each class applicable both to the original contract period and to any renewal option period.

(ii) When the scope of work called for in the solicitation for the original contract period and any renewal option period differs, the offeror shall be required by the solicitation to submit with the offer, and any resulting contract shall contain in the Schedule, for the original contract period and any renewal option period, respectively, a *separate* listing of both classes of the Service Contracts Act service employees and the number of labor hours to be supplied by each class.

(2) *For time and material contracts, and labor-hour contracts:* The offeror shall be required by the solicitation to submit with the offer, and the Schedule of any resulting contract shall contain, a listing of the classes of Service Contract Act service employees for the initial contract and any renewal period, and the contract unit price labor rates, in the same format as set forth in the Service Contract Act determination for each class.

(b) The following clause shall be inserted in firm fixed-price contracts, time and material contracts, and labor-hour contracts which contain the clause in 12.1004(a) (i.e., contracts in excess of $2,500), and which contain an option to renew. It should be noted that the adjustments under (c)(ii) and (c)(iii) of the clause may be applicable to the base period as well as to subsequent periods. (The clause prescribed below shall not be used in cost-type contracts.)

Fair Labor Standards Act and Service Contract Act—Price Adjustment (November 1980)

(a) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits,

issued pursuant to the Service Contract Act of 1965, as amended, (41 U.S.C. 351 et seq.), by the Administrator, Wage and Hour Division, U.S. Department of Labor, current at the beginning of each renewal option period shall apply to any renewal of this contract. When no determination has been made as applied to this contract, then the Federal minimum wage as established by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 201 et seq.) current at the beginning of each renewal option period, shall apply to any renewal of this contract.

(c) When, as a result of (i) the Department of Labor determination of minimum prevailing wages and fringe benefits applicable at the beginning of the renewal option period, (ii) an increased or decreased wage determination otherwise applied to the contract by operation of law, or (iii) an amendment to the Fair Labor Standards Act enacted subsequent to award of this contract, affecting minimum wage, which becomes applicable to this contract under law, the Contractor increases or decreases wages or fringe benefits of employees working on this contract to comply therewith, the contract price or contract unit price labor rates will be adjusted to reflect such increases or decreases. Any adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the concomitant increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not include any amount for general and administrative costs, overhead, or profits. In firm fixed-price contracts, the adjustment will be based on labor hours specified in the Schedule for the particular option period. In Time and Material contracts and Labor-Hour contracts the contract unit price set forth in the Schedule will be adjusted.

(d) The Contractor shall notify the Contracting Officer of any increases claimed under this clause within thirty (30) days after the effective date of the wage change, unless this period is entended by the Contracting Officer in writing. In the case of any decrease under this clause, the Contractor shall promptly notify the Contracting Officer of such decrease but nothing herein shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof, which may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. Pending agreement on, or determination of any such adjustment and its effective date the Contractor shall continue performance.

(e) The Contracting Officer or an authorized representative shall, until expiration of three (3) years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor.

12.1051 Hearings. A successor contractor's obligation (see 12.1001(iii)) cannot be avoided unless it is found after a hearing that the bargained for wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality. Hearings may be requested by any interested party, including the contractor, a union, or the contracting agency. Details pertaining to hearings are in 29 CFR 4.10. Any request for a hearing from a NASA contracting office will be coordinated with, and forwarded to, NASA Headquarters (Code NR–31).

12.1052 Potential Application Clause. The following clause is to be included in solicitations and resulting contracts for overhaul and modification of equipment, which are considered by the contracting officer to be subject to the Walsh-Healy Public Contracts Act rather than the Service Contract Act, as amended. In paragraph (c) of the clause, "60 days" may be substituted for "30 days."

Potential Application of the Service Contract Act as amended (Fixed-Price) (November 1980)

(a) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) If during the performance of this contract, it is determined by appropriate authority that the provisions of the Service Contract Act of 1965, as amended, apply to any of the work covered by this contract, the Contracting Officer may unilaterally implement that determination by requiring payment of the appropriate wage and fringe benefit scale, and the Contractor agrees to comply with the implementation. If compliance with the Contracting Officer's direction results in any increase in the labor rates paid under this contract, the Contractor agrees to enter promptly into negotiations to reflect the increase. The contract adjustment shall be limited to increases in wages or fringe benefits affected by the above determination, and the concomitant increases in social security and unemployment taxes and workmen's compensation insurance, but shall not include any amount for profit, or for general administrative costs or overhead.

(c) Within 30 days of receipt of the applicable wage and fringe benefit scale, the Contractor will submit a proposal for any contract price change to the Contracting Officer. With the submission of the proposal for adjustment, the Contractor shall also submit, if requested by the Government, all necessary and pertinent data used in preparing the proposal upon which the original award of this contract was received. The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under this contract.

(d) This clause shall be deemed to constitute the exclusive contractual remedy of the Contractor for adjustment arising out of the decision to apply the Service Contract Act, as amended, to the work covered by this contract. Failure of the parties to reach an understanding as to such adjustment shall be considered a dispute subject to the Disputes clause of the contract.

12.1053 Procedures for Evaluating Professional Employee Compensation for Service Contracts.

12.1053–1 General. The Service Contract Act of 1965, as amended, was enacted to ensure that blue collar and some white collar workers are fairly compensated by contractors providing contract services to the Government. It does not apply, however, to professional employees. This paragraph provides procedures to be used when contracting for services which include a meaningful number of professional employees not covered under the Service Contract Act. These requirements augment the evaluation procedures in 3.804–2 and 3.804–3.

12. 1053–2 Solicitation Provisions.

(a) To assure a consistent and uniform practice throughout the Government, the Solicitation Provisions in (e) below shall be included as evaluation requirements in solicitations for negotiated procurements in excess of $250,000, the principal purpose of which is to furnish services in the United States, which involve a meaningful number of professional employees who will be employed by the contractor in performance of the service contract.

(b) The Instructions to Offerors will be included under the appropriate explanation of the method of evaluation to be utilized so that prospective offerors may understand the use and treatment of the total compensation of professional employees in the evaluation of proposals.

(c) The weighted and scored evaluation criterion, Total Compensation Plan (Professional Employees), shall be included under the Mission Suitability Factor-Understanding the Requirement. This criterion shall be accorded sufficient weight and relative order of importance to be effective under the particular circumstances involved. In this respect, when there is a significant number of professional employees involved, and the period of performance is lengthy and the cost relatively large, or there is continuity of the same or similar services at the same location, the weight and relative importance of the criterion should be in the most important category.

(d) The provisions relating to cost (Professional Compensation) and Other (Labor Relations) shall be included as categories under Cost Factors and Other Factors, respectively.

(e) The following provisions will be used as required in (a) above:

Provisions for Evaluation of Compensation for Professional Employees (November 1980)

Instructions to Offerors.

(a) Total compensation (salary and fringe benefits) of professional employees under service contracts may, in some cases, be lowered by recompetition of such contracts. The lowering of compensation can be detrimental in obtaining the necessary quality of professional services needed for adequate performance of service contracts. It is, therefore, in the best interest of the Government that professional employees, as defined in 29 CFR 541 be properly and fairly compensated in such contracts. As a part of their proposals, offerors will submit a "Total Compensation Plan" (salaries and fringe benefits) for professional employees for evaluation purposes.

(b) The Government will evaluate the Total Compensation Plan to assure that such compensation reflects a sound management approach and an understanding of the requirements to be performed. It will include an assessment of the offeror's ability to provide uninterrupted work of high quality. The total compensation proposed will be evaluated in terms of enhancing recruitment and retention of personnel and its realism and consistency with a total plan for compensation (both salaries and fringe benefits).

(c) Criteria for evaluation, therefore, will include an assessment of the Total Compensation Plan submitted by each offeror.

Evaluation Criteria.

(a) *Total Compensation Plan (Professional Employees).* In establishing compensation levels for professional employees, the total compensation (both salaries and fringe benefits) proposed, shall reflect a clear understanding of the requirements of the work to be accomplished and the suitability of the proposed compensation structure to obtain and retain qualified personnel to meet mission objectives. The salary rates or ranges must recognize the distinct differences in professional skills and the complexity of varied disciplines as well as job difficulty. Proposals offering total compensation levels less than currently being paid by the predecessor Contractor for the same work will be evaluated, in addition to the above, on the basis of maintaining program continuity, uninterrupted work of high quality, and availability of required competent professional employees. Offerors are cautioned that instances of lowered compensation for essentially the same professional work may be considered a lack of sound management judgement in addition to indicating a lack of understanding of the requirement.

(b) *Cost (Professional Compensation).* Proposals which are unrealistically low or do not reflect a reasonable relationship of compensation to professional job categories so as to impair the Contractor's ability to recruit and retain competent professional employees, may be viewed as reflecting a failure to comprehend the complexity of the contract requirements. The Government is concerned with the quality and stability of the work force to be employed on this contract. The compensation data required will be used in evaluation of the offeror's understanding of the contract requirements.

(c) *Other (Labor Relations).* An assessment of the potential for adverse effect upon performance and maintenance of the required number of professional employees with requisite skills resulting from an unrealistically low compensation structure will also be made.

12. 1053–3 Notice. Offerors will be advised of the Solicitation Provisions by the inclusion of the following "Notice" in a conspicuous place in the solicitation.

Notice to Offerors

Note.—The solicitation provisions relating to fair and equitable compensation to professional employees set forth elsewhere in this solicitation. Failure to comply with such provisions may constitute sufficient cause to justify non-selection of a proposal. The total compensation plan required to be submitted by the offeror will be viewed as being within the purview of Public Law 87–653.

12. 1053–4 Discussions and Administration.

(a) Although the conduct of written or oral discussions is governed by 3.804–3, NASA evaluators must insure that they fully understand the compensation plan proposed by each offeror within the competitive range, and to the extent a particular plan is either unclear or not fully substantiated, clarification shall be sought from the offeror and/or additional substantiating information shall be requested. To the extent applicable in a given situation, substantiating information will include data, such as recognized national and regional compensation surveys and studies of professional public and private organizations, used in establishing the total compensation structure.

(b) In order to provide for proper administration of the policy during contract performance, and to lend authenticity to the successful offeror's plan for compensation of professional employees, the successful offeror's plan shall be kept on file and will be viewed as being within the purview of Public Law 87–653.

[FR Doc. 80-36614 Filed 11-24-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5775

[Nev-047410, Nev-047411, Nev-047432, Nev-047434, Nev-047436, Nev-047437]

Nevada; Partial and Total Revocation of Stock Driveway Withdrawals

Correction

In FR Doc. 80–35728 appearing at page 75664 in the issue for Monday, November 17, 1980, make the following correction:

On page 75664, in the third column, under "Stock Driveway—Withdrawal No. 62, Nevada No. 11", in the sixth line, "S½, N½SW¼" should read "S½N½, SW¼".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-68; RM-3213, RM-3252 and RM-3265]

FM Broadcast Stations in Lakeport and Williams, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action assigns Channel 252A and Channel 258 to Lakeport, California, and Channel 298 to Williams, California, in response to petitions from Lake County Broadcasting Company, Sydney Moate and California Oregon Broadcasting, Inc.

EFFECTIVE DATE: January 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 18, 1980.

Released: November 24, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted February 13, 1980,[1] proposing the assignment of Channel 252A and Channel 258 to Lakeport, California, and

[1] Published in the **Federal Register** at 45 Fed. Reg. 13148 on February 28, 1980.

the assignment of Channel 298 to Williams, California. The *Notice* was issued in response to three petitions for rule making. The petition of Lake County Broadcasting Company ("Lake") for Channel 252A at Lakeport, is unopposed. Sydney H. Moate ("Moate") and California Oregon Broadcasting, Inc. ("COBI") filed petitions for Channel 298 at Lakeport and Williams, respectively, which were mutually exclusive due to the minimum distance separation requirements between co-channels. However, to avoid the short-spacing problem, the Commission proposed to substitute Channel 258 for Channel 298 at Lakeport. In addition, petitioner Moate was requested to submit an improved *Roanoke Rapids* showing and a preclusion study for Channel 258.

2. Lakeport, California (population 3,005) [2] is located in Lake County (Population 19,548) and is served locally by daytime-only AM Station KBLC (1270 kHz). Williams, California (population 1,571) is located in Colusa County (population 12,430), and presently has no local aural service.

3. In response to the Notice, Lake filed comments and reply comments reaffirming its interest in Channel 252A in Lakeport. COBI also filed comments reaffirming its interest in Channel 298 in Williams. Petitioner Moate responded to the *Notice* by filing comments stating that it would apply for Channel 258 if assigned to Lakeport, thus eliminating the competitive element from the assignment of Channel 298. As requested, it submitted an amended *Roanoke Rapids* showing, with population figures that were revised upwards by using more recent counts and with overlapping signal contours that were corrected for terrain shielding. Those figures indicate that a first FM service would be provided to 30,000 persons (the amount of second FM service to be provided remains unclear). Petitioner Moate estimated that 22,000 persons would receive a first nighttime aural service and that 11,000 persons would receive a second nighttime aural service. It also submitted the requested preclusion study for Channel 258, which indicated that preclusion would be caused to some communities with a population exceeding 1,000 persons on Channels 256, 257A and 258. That study further indicated that all such communities have existing and/or available FM channel assignments.

4. After careful review, the Commission has concluded that adoption of the proposal here would serve the public interest. Our decision to assign Class B channels at each community is strongly influenced by the substantial first and second services that would be obtained. In addition, there is a need for at least a first FM assignment in both Williams and Lakeport. Although intermixture of classes of channels will result at Lakeport, the Class A proponent has interposed no objection and this situation is no different than the usual case where Class A assignments are approved to a community already served by a Class B or C channel. See *e.g., Yakima, Washington*, 42 FCC 2d 548 (1973), *Key West, Florida*, 45 FCC 2d 142 (1974). It should be noted that Channel 258 will be assigned to Lakeport with a site restriction of 20 kilometers (12 miles) northwest and that Channel 298 will be assigned to Williams with a site restriction of 22 kilometers (13.6 miles) northwest.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS ORDERED, That effective January 2, 1981 the FM Table of Assignments, Section 73.202(b) of the Commission's Rules is amended as they pertain to Williams, and Lakeport, California, as follows:

City	Channel No.
Lakeport, Calif.	252A, 258
Williams, Calif.	298

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding contact Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36736 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-71; RM-3294]

FM Broadcast Station in Bettendorf, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein assigns FM Channel 228A to Bettendorf, Iowa, in response to a petition filed by James J. McNamara. The assigned channel could provide Bettendorf with it first local aural broadcast service.

EFFECTIVE DATE: December 26, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 10, 1980.
Released: November 21, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 45 FR 13144, published February 28, 1980, proposing the assignment of FM Channel 228A to Bettendorf, Iowa, as its first FM assignment, in response to a petition filed by James J. McNamara ("petitioner"). Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned.

2. Bettendorf (pop. 25,100) [1] seat of Scott County (pop. 142,687) is located in eastern Iowa on the Mississippi River. It has no local aural broadcast service.

3. Petitioner asserts that Bettendorf, as the county's second largest city is an integral part of the Quad-City metropolitan area, and the center of commerce and civic affairs. The channel assignment would provide for substantial expansion of the economic, cultural and social activities.

4. In view of the above, the Commission believes that the public interest would be served by assigning Channel 228A to Bettendorf, Iowa, since it would provide the community with an opportunity for a first local aural broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective December 26, 1980, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the community listed below:

[1] Population figures are taken from the 1970 U.S. Census.

City	Channel No.
Bettendorf, Iowa	228A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36735 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-13; RM-3173]

TV Broadcast Stations in Anaconda, Butte, and Bozeman, Mont.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action deletes reserved VHF television Channel *7 from Butte, Montana and reassigns it to Bozeman, Montana, as that community's first local commercial television assignment. It also reassigns VHF television Channel 2 from Anaconda, Montana to Butte, Montana as a reserved noncommercial educational channel.

EFFECTIVE DATE: January 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 18, 1980.

Released: November 26, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making,*[1] adopted January 16, 1980, proposing the reassignment of VHF television Channel 7 from Butte to Bozeman, Montana, the substitution of VHF Channel 2 for VHF Channel *7 in Butte, Montana and the deletion of VHF Channel 2 from Anaconda, Montana. The proposal was adopted in response to a petition filed by Robert Cooper ("petitioner"). Comments were submitted by petitioner. Opposing comments were received from Capital City Television, Inc. ("CCTV"), licensee of television Station KTCM, Channel 12, Helena, Montana; the Rocky Mountain Corporation for Public Broadcasting ("RMCPB"); and the Governor of the State of Montana, Thomas L. Judge. Reply comments were submitted by petitioner and CCTV.

2. The *Notice* proposed the reassignment of Channel *7 from Butte, Montana (where it is reserved for noncommercial educational use but unoccupied) to Bozeman, Montana, as a first local commercial television assignment. Further proposed was the deletion of Channel 2 from Anaconda, Montana (where it is unoccupied) and its reassignment to Butte, as a channel reserved for noncommercial educational use. In issuing the proposal for comment, the Commission attempted to respond both to concerns expressed over the possible loss of a noncommercial service to Butte and the State of Montana, as well as to an expressed interest in providing a first local commercial service at Bozeman. Petitioner Robert Cooper submitted the only comments in support of the proposal set forth in the *Notice of Proposed Rule Making.*

3. In opposition to the proposal, CCTV, whose comments indicate that is has filed an application for a 100 watt translator facility (BPTTV–80040IIC) specifying Channel 2 in Anaconda, suggests that petitioner's desire for a VHF commercial channel assignment in Bozeman could be met by removing the reservation for noncommercial educational use from the current Channel *9 Bozeman assignment. In that way, CCTV argues, Channel *7 could remain in Butte, satisfying the area's educational interests, and Channel 2 could remain in Anaconda. Moreover, Bozeman's future noncommercial educational needs could be met, CCTV urges, by adding a reserved UHF channel.

4. Governor Judge and RMCPB object to the proposed substitution of Channel 2 for Channel *7 at Butte, indicating that because of interference, Channel 2 is not as desirable a channel. Several letters[2] attached to Governor Judge's comments also make this claim, but, as with all the comments, no engineering studies are included to support it.

5. As the Commission sees it, two issues must be resolved in this proceeding. First, should provision for a 100 watt VHF translator station at Anaconda be given greater weight than provision for a noncommercial educational VHF channel assignment at Bozeman? CCTV argues that petitioner should have taken into account the possibility of removing the noncommercial educational reservation from the existing Bozeman VHF assignment (Channel *9). But petitioner should not be faulted for this failure inasmuch as the commission has scrupulously avoided requiring such action.[3] Indeed, the Commission has, over the years, developed a policy of resisting proposals to dereserve channels, especially where, as here, a comunity would be left without the means by which to meet the anticipated need for noncommercial educational television service. In this regard, the Commission notes Bozeman's emergence as one of Montana's major markets. Moreover, although the CCTV proposal provided that a UHF channel should be added to Bozeman to replace a dereserved Channel 9, the Commission does not believe that a UHF channel reservation for noncommercial educational use, in a state having no present UHF service, would be a particularly attractive alternative.

6. CCTV further asserts that its proposal is superior because it would enable CCTV to operate a 100 watt commercial VHF translator station at Anaconda. However, section 74.702(c)(3) of the Commission's Rules specifically provides that "[c]hanges in the television Table of Assignments (Section 73.606(b) of this chapter) may be made without regard to existing or proposed television broadcast translator stations." Pursuant to this rule, the Commission has in the past elected not to permit the existence, or proposed existence, of translator stations—so called "secondary" services—to affect

[1] 45 FR 6124 (published January 25, 1980).

[2] These include letters by Elizabeth L. Hurley, Chairman of the Montana Telecommunications Advisory council; Thomas W. Jenkins, chief Engineer, Department of fiber and television Production, Montana State University; and Gregory S. MacDonald, Acting Chairman, Radio-Television Department, University of Montana.

[3] See for example, *Ogden, Utah,* 44 Fed. Reg. 25252, April 30, 1979; *Kalamazoo, Michigan,* 44 Fed. Reg. 67667, November 27, 1979; *High Point, North Carolina,* 44 Fed. Reg. 67665, November 27, 1979; *Vancouver, Washington,* 45, Fed. Reg. 10348, February 15, 1980.

its ultimate decision in television Table of Assignment cases. Furthermore, it should be noted that a rejection of CCTV's proposal would not leave it without recourse; it could, for example, seek Commission authorization to construct and operate a 10 watt VHF translator facility in Anaconda, for which a vacant channel assignment is not necessary.[4]

7. In view of the foregoing, it is the Commission's opinion that the need for providing a noncommercial educational channel assignment at Bozeman substantially outweighs the need for a 100 watt translator facility at Anaconda. We therefore find that the public interest would be better served by preserving the noncommercial educational designation for VHF Channel *9 at Bozeman, rather than dereserving it for commercial use, as proposed by CCTV.

8. The second issue involves the problem of comparing the need in Bozeman for a first local commercial VHF channel assignment against the possibility that a Channel 2 Butte educational assignment would be less effective that a Channel 7 assignment in providing service to Butte (and ultimately to the entire State of Montana). The Commission believes that the need for the channel assignment at Bozeman is clear and undisputed. The community presently has only an inactive noncommercial channel (*9) allocated to it, and receives no Grade A television service from outside the community. Its growth into one of the major markets in the State of Montana is also uncontested.

9. On the other hand, it is not so clear that a Channel 2 Butte assignment would be less effective in providing the desired service. Opponents of the proposed amendments to the Table of Assignments have come forward with no information to substantiate their claim that a Channel *2 Butte assignment would be inferior to a Channel *7 Butte assignment. Moreover, even if some reliable information had been forthcoming, the Commission has never elevated a noncommercial educational television service to a status where it would merit a "clear channel" to avoid the possibility of interference.[5]

Nor does it appear, from an examination by the Commission's technical staff, that the interference-limited service areas of Channel 2 and Channel 7 would be significantly different. Although the existence of rough terrain (such as the terrain in western Montana) does increase the difficulty of calculating interference, it is far from obvious to the Commission that a Channel 2 Butte station would be inferior. Indeed, it may well be that a Channel 2 station would enable Butte to serve a slightly larger area.

10. In any event, even if information had been submitted demonstrating the technical inferiority of a Channel 2 assignment at Butte, it would also have been necessary to demonstrate that the difference was great enough to outweigh the possible benefits of a first local commercial station at Bozeman. But, having been provided with no information to support the claim that a Channel *2 Butte assignment would be inferior to a Channel *7 Butte assignment, and having found no such information on our own investigation, the Commission must conclude that any actual difference is not sufficient to outweigh the benefits of a first local commercial channel assignment at Bozeman.

11. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective January 2, 1981, the Television Table of Assignments, Section 73.606(b) of the Commission's Rules, is amended for the cities listed below to delete the listing for Anaconda, Montana and to read as follows:

City	Channel No.
Bozeman, Mont.	7–, *9
Butte, Mont.	*2+, 4, 6+, 18, 24

12. It is further ordered that this proceeding is terminated.

13. For further information concerning this proceeding, contact Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36737 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[4] In this regard, a preliminary investigation by the Commission's technical staff indicates that an appropriately located 10 watt facility may adequately serve Anaconda.

[5] Even Butte's Channel 7 assignment would be predicted to receive interference from Station KPAX-TV, Channel 8, Missoula, Montana (165 kilometers (102 miles) northwest of Butte) and possibly also from KTVB, Channel 7, Boise, Idaho (383 kilometers (238 miles) southwest of Butte).

47 CFR Part 87

[PR Docket No. 80-137; RM-3429; FCC 80-637]

Aviation Services; Automatic Digital Communications in the Aeronautical Enroute Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action will amend the rules to facilitate the operation of automatic digital communications systems in the aeronautical enroute service. This action was requested by Aeronautical Radio, Inc., which is a non-profit communications company owned by the air transport industry. The intended effects are more efficient use of radio frequencies and improved airline operations.

EFFECTIVE DATE: December 26, 1980.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: November 6, 1980.

Released: November 20, 1980.

By the Commission:

1. This action will amend the Commission's rules to facilitate the operation of automatic digital communications systems in the aeronautical enroute service.

Background

(Aeronautical Enroute Service)

2. The aeronautical enroute service provides for air-ground communications for the operational control (i.e., flight management) of aircraft by the owners or operating companies.[1] Communications relate to the safe and efficient operation of aircraft. Typical messages concern aircraft position reports, performance, fuel, weather, supplies, passenger needs and the like.

[1] Operational control communications are defined in Volume II of Annex 10 to the Convention on International Civil Aviation as communications required for exercising authority over initiation, continuation, diversion or termination of a flight. In other words, such communications are used by an organization to directly manage its aircraft operations.

These operational control communications should not be confused with air traffic control communications which relate to the safe, and orderly flow of air traffic, i.e., provide safe separation of aircraft. In the United States, air traffic control services are provided by the Federal Aviation Administration (FAA).

Public correspondence is not permitted on enroute frequencies.

3. Aeronautical enroute stations (ground stations) are the means by which companies satisfy FAA requirements to maintain reliable communications between each aircraft and the appropriate dispatch office in the case of large airlines, or maintain flight following systems in the case of small airlines and large commercial aircraft operations (14 CFR 121.99 and 121.125, respectively).

4. The Commission's rules governing enroute stations are set forth in Subpart E of Part 87 (Aviation Services). These Stations are required to ". . . provide all necessary non-public service HF and VHF, . . . without discrimination to any aircraft station licensee who makes cooperative arrangements for the operation and maintenance of the aeronautical enroute stations which are to furnish such service and for shared liability in the operation of such stations. . . ." [2] Further, only one enroute station in the domestic service and one such station in the international service may be authorized at any one location. [3] Location for the purposes of this rule is defined as an area which can be adequately served by the particular station.

(Aeronautical Radio, Inc.)

5. Aeronautical Radio, Inc. (ARINC) is the licensee of all but a half dozen of the more than 2500 VHF and HF enroute stations located throughout the United States, and serves the air transport industry on a non-profit, cost-sharing basis. The principal users of its system as well as principal stockholders are the U.S. scheduled airlines. However, ARINC provides enroute service to all aircraft operators, including foreign airlines, business entities and private individuals, who make cooperative arrangements.

(Petition)

6. ARINC filed a petition (RM-3429) requesting that we amend Part 87 of the rules to change existing regulations so as to facilitate the operation of automatic digital communications systems in the aeronautical enroute service. ARINC has developed, in cooperation with the aviation industry, an automatic digital communications system. [4] The system was described as consisting of digital message generating and decoding equipment located at selected ground facilities and on board aircraft together with the usual VHF transmitters and receivers. The communications are generated by airborne sensors, transmitted digitally to a ground station and sent automatically via ARINC's electronic switching system to the addressed terminal. Human intervention is unnecessary.

7. ARINC stated that its system will intially operate on a single frequency for both air-to-ground and ground-to-air. Expansion to a second frequency in the enroute band may be desirable in the future. It will utilize audio phase shift keying transmitting 2400 bits per second of ASCII encoded data. The use of audio phase and frequency shift keying in the band (117.975–136 MHz) is currently provided for in Section 87.67 of the rules. (All equipment new or existing must be type accepted to provide for this emission designator.)

8. ARINC indicated that an automated digital communications system in the enroute service would provide two important benefits for the public and air transport industry. First, it would conserve spectrum by reducing the time to make routine reports. Second, airline operations would be improved by reducing cockpit workloads (i.e., eliminating many routine voice reports) and increasing the reliability of the reported information.

9. According to ARINC, extensive operational testing of its system has demonstrated its feasibility, but has also pointed out changes required in Commission's rules to provide a basis for regular operation of automatic digital systems in the enroute service. Therefore, ARINC requested the rules be amended regarding (1) the form of station identification, (2) the necessity for licensed operators at control points, (3) the maintenance of station logs and (4) transmitter control requirements.

Notice of Proposed Rule Making

10. In response to ARINC's petition, we issued a Notice of Proposed Rule Making [5] which proposed to amend the rules substantially as requested by ARINC. These amendments were designed to accommodate the operation of a computer controlled digital communications system in what is presently a voice communciations system. Changes to four rule sections in Part 87 were proposed.

11. First, we proposed to specifically include automatically controlled digital aeronautical enroute stations within the category of radio systems exempted in Section 87.115(i) from station identification requirements. Section 87.115(i) exempts certain radio systems from transmission of identification where impracticable (e.g., weather radar, radio altimeter, air traffic control transponder). We felt station identification of this automatic digital system would not be necessary. However, we noted that if in the future such systems proliferate in the Aviation or other services some form of station identification may be required.

12. Second, we proposed to amend Section 87.139 to provide that licensed operators would not be required to operate automatically controlled digital enroute stations. In that the ARINC system is computer controlled and incorporates circuitry to prevent interference and excessively long transmissions as well as malfunction alarm circuits, we felt that the presence of a licensed operator at the control point is unnecessary.

13. Third, we proposed to exempt such enroute stations from the requirement contained in Section 87.99 to maintain an operator's station log. Since the ground terminals will be automatically controlled by a computer, an operator's station log would also be unnecessary. We noted, however, that ARINC for its own purposes keeps records of the hours of operation, messages transmitted and operational status of stations. Additionally, the FAA's requirements (contained in 14 C.F.R. 121.711) regarding the retention of records relating to any emergency, claim or complaint will be complied with. Therefore, we take this opportunity to eliminate entirely the log keeping requirement in the enroute service.

14. Fourth, we proposed exempting automatic digital enroute stations from the requirements contained in Section 87.75 for: (1) a licensed operator at a "control point", (2) a visual indication when the transmitter is radiating, and (3) equipment to permit aural monitoring of transmissions. Again, since these stations will be computer controlled and typical digital transmissions will last less than one second, such requirements designed for voice communications systems appeared unnecessary.

15. Additionally, we noted that the spectrum efficiency (less than 0.1 bit per second per Hertz) of the system ARINC plans to operate might not be optimum. Although this system represents a significant increase in the efficiency of

[2] 47 C.F.R. 87.291(a)

[3] 47 C.F.R. 87.291(b). However, in the *Notice of Proposed Rule Making* in PR Docket No. 80-243, (adopted May 29, 1980, FCC 80-284, 45 Fed. Reg. 40188 we proposed, among other things, to substitute one *licensee* per location for the current one *station* per location. This is part of an effort to simplify and clarify the enroute rules.

[4] The system is known as the ARINC Communications Addressing and Reporting System (ACARS). ACARS is a registered service mark.

[5] PR Docket No. 80-137 (RM-3429) released April 10, 1980, FCC 80-184, 45 Fed. Reg. 25415; Errata, released May 5, 1980, mimeo 27363, 45 Fed. Reg. 31765.

enroute communications, we asked for comments addressing more spectrally efficient modulation or encoding techniques which could increase spectrum efficiency.

Comments

16. ARINC was the only party that filed comments in this proceeding. ARINC agrees with each of the proposed amendments to Part 87 of the rules and urges that they be adopted as set forth in the NPRM.

17. ARINC also commented regarding our inquiry as to possible improvements in the ACARS modulation scheme.[6] ARINC states that along with the airlines and equipment manufacturers it has designed and implemented what it considers an efficient and effective communications system, and that changes in design now would negate years of planning and render obsolete an improved service which has just been successfully tested.

18. ARINC further argues that what it considers the success of the air transport industry in meeting its communications needs within the relatively limited aeronautical enroute spectrum has been long range industry planning. ARINC works closely with the air transport industry and equipment manufacturers through its Aeronautical Frequency Committee (AFC) and its Airline Electronic Engineering Committee (AEEC).[7] This process is designed to ensure smooth transitions to new systems at the least cost. ARINC states that together with AFC and AEEC, work is continuing on improved communications systems for future implementation. It emphasizes, however, that changes in the technical operation of its automatic digital enroute service would disrupt implementation and put off realization of the system's benefits for a period of years.

Commission Action

19. We conclude that the amendments proposed in the NPRM to facilitate the operation of automatic digital communications systems in the aeronautical enroute service would be in the public interest. No comments were filed in opposition to the proposed amendments. The system proposed will increase spectrum efficiency and will benefit air transport operations by reducing cockpit workloads and increasing the reliability of communications. It is important to note that such increased efficiency can be achieved with no increased spectrum requirements. Because of this the relatively low bit-rate per hertz of the new system is acceptable. We recognize that more spectrally efficient modulation techniques could not be applied to the ARINC system at this time without substantial delays in implementation. This would not be desirable. However, any further improvements such as an increased bit-rate might well be required before the allocation of additional spectrum would be justified. Therefore, we are amending Sections 87.75, 87.99, 87.115 and 87.139 as proposed.

20. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7175.

21. Accordingly, IT IS ORDERED, That, under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules ARE AMENDED as set forth in the attached Appendix, effective December 26, 1980.

22. It is further ordered, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 87.75, the introductory sentence of paragraphs (c) and (d) are amended and new paragraph (f) added to read as follows:

§ 87.75 Transmitter control requirements.

* * * * *

(c) Except for stations governed by paragraph (f), a control point is a position which meets all of the following conditions: * * *

(d) Except for stations governed by paragraph (f), at each control point the following facilities shall be installed:

* * * * *

(f) In the aeronautical enroute service, the control point for an automatically controlled enroute station shall be the computer facility which controls the transmitter. Each such computer facility shall be installed and protected so that is is not accessible to or capable of operation by persons other than those duly authorized by the licensee. Any transmitter controlled by such a computer facility shall be equipped with automatic controls to render the transmitter inoperative following a continuous transmission of more than 180 seconds.

2. In § 87.99, the first sentence of paragraph (a) is amended to read as follows:

§ 87.99 Information required in station logs.

(a) Except for radionavigation land test stations (MTF) and aeronautical enroute stations, all stations at fixed locations shall maintain logs showing hours of operation, frequencies used and hours of duty and the signature of the operator(s) on duty. * * *

* * * * *

3. In § 87.115 paragraph (i) is amended by adding the words "automatically controlled aeronautical enroute station" at the end of the paragraph, to read as follows:

§ 87.115 Station identification.

* * * * *

(i) Radio systems where the transmission of specific identification is considered to be impracticable are exempted from the provisions of this section: I.E., airborne weather radar, radio altimeter, air traffic control transponder, distance measuring equipment, collision avoidance equipment, racon, radiosonde, radio relay, radionavigation land test station (MFT), and automatically controlled aeronautical enroute station.

* * * * *

In § 87.139, new subparagraph (a)(4) is added to read as follows:

§ 87.139 Operator licenses not required for certain operations.

(a) * * *

(4) Operation of any aeronautical enroute station which transmits by automatic means digital communications to aircraft stations.

* * * * *

[FR Doc. 80-36705 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[6] 31 F.C.C. 2d 193.

[7] ARINC indicates that AFC includes representatives of twelve airlines, the Commuter Airline Association of America, the Helicopter Association of America, the Aircraft Owners and Pilots Association, and the National Business Aircraft Association. AEEC is larger and has worldwide participation. Attendance at the final drafting session of AEEC Characteristic 597, which sets out the airborne system specifications for ACARS, included representatives of ARINC, twelve airlines (including one European airline), six manufacturers, the Department of Transportation, and the United States Air Force.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1014

[Ex Parte No. 366]

Legal Assistance Referral Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Informal Conference on reopening and reconsideration of Final Rules.

SUMMARY: This notice invites members of the public to participate in an informal conference to discuss the reconsideration of regulations to facilitate the operation of a legal assistance referral program for parties otherwise financially unable to participate in Commission proceedings. This implements the Commission's decision of October 10, 1980 in this proceeding, which granted a petition requesting an informal conference to discuss parts of the Commission's regulations which are in question.

DATE: Wednesday, December 17, 1980, at 9:30 a.m.

ADDRESS: Conference location: Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423 (Hearing Room A).

FOR FURTHER INFORMATION CONTACT: Director Gary J. Edles or Associate Director Michael Erenberg, 202–275–7513.

SUPPLEMENTARY INFORMATION: The Commission established rules in the proceeding at 45 FR 20104, March 27, 1980, and corrected at 45 FR 22945, April 4, 1980. The rules govern Commission participation in the Legal Assistance Referral Service, a one-year trial program of the CLCR.

In its order of October 10, 1980, the Commission adopted a suggestion to establish an informal conference whereby interested practitioners could meet with Commission representatives to discuss the establishment of a legal assistance program which would allow the Commission and its bar to achieve the most out of this potentially worthwhile program. I have been directed to chair such a conference. To achieve this goal an informal conference will be held on Wednesday, December 17, 1980, at 9:30 a.m., in Hearing Room A at the Commission's headquarters in Washington, D.C.

Representing the Commission at the conference will be staff members involved in developing the rules necessary to implement any program which may be instituted.

Persons wishing to attend and participate in this discussion should advise me by telephone at least one week prior to the conference. However, the conference will be open to all. Organizations with common views should attempt to agree on a single spokesperson.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Dated: October 27, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36772 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Thirteenth Rev. S. O. No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

November 19, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Thirteenth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., November 22, 1980, and continuing in effect until 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Thirteenth Revised Service Order No. 1473 modifies Appendix A of the previous order by clarifying Item 6.A., with respect to the operation of the Fort Worth and Denver Railway Company (FWD) between Amarillo and Bushland, Texas. The authority of the FWD was incorrectly stated in Ninth Revised Service Order No. 1473, served September 18, 1980, as at Amarillo and at Bushland inadvertently omitting the segment between those points. The authority of the FWD to serve between Amarillo and Bushland is held to be continuous since that date. The authority of the FWD is modified further by the deletion of Item 6.C., from Amarillo, Texas, to Liberal, Kansas, including the trackage rights of the former RI over the Atchison, Topeka and Santa Fe Railway Company (ATSF) between Amarillo and Etter, Texas. ATSF has stipulated that these trackage rights no longer exist. This action is taken without prejudice to future filings by FWD with respect to interim operations or applications for acquisition and does not intend to reflect on the adequacy of service provided by FWD in its various interim operations. Thirteenth Revised Service Order No. 1473 further modifies Appendix A of the previous order by granting additional authority in Item 24.B., to the La Salle and Bureau County Railroad Company from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8) at Blue Island, Illinois.

Thirteenth Revised Service Order No. 1473 is further modified by incorporating the provisions of Third Revised Service Order No. 1435 into this order and its appendix as Appendix B. This provides for joint operation by various other railroads of RI owned tracks and/or facilities at numerous locations. The use of these tracks and/or facilities is essential to the continued operations of the other railroads.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific*

Railroad Company, debtor, (William M. Gibbons, trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

1. The authority contained in Item 5(E) of Appendix A of this order, previously operated by the Union Pacific Railroad Company (UP) between Colby and Caruso, Kansas (milepost 387.8 to 429.3) is conditioned upon the assumption by Burlington Northern, Inc. (BN) of the negotiated agreement between UP and the Rock Island Trustee with regard to the compensation to be paid the Trustee for that line segment until a new agreement is reached between the Trustee and the BN.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers, as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

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

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., November 22, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

Appendix A.—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*
   A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
3. *Union Pacific Railroad Company (UP):*
   A. Beatrice, Nebraska.
   B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
   C. Limon, Colorado.
4. *Toledo, Peoria and Western Railroad Company (TP&W):*
   A. Keokuk, Iowa.
   B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
5. *Burlington Northern, Inc. (BN):*
   A. Burlington, Iowa (milepost 0 to milepost 2.06).
   B. Fairfield, Iowa (milepost 275.2 to milepost 274.7).
   C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).
   D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9).
   E. CBQ Junction, Kansas (milepost 325.9) to Seibert, Colorado (milepost 487).
6. *Fort Worth and Denver Railway Company (FW&D):*
   [1]A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately (3) three miles northerly along the old Liberal Line.

[1] Changed.

B. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*
A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.
D. from Clear Lake Junction (milepost 191.1) to Purina, Iowa (milepost 147.0).
E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).
F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
J. from Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).
K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).
P. Sibley, Iowa.
Q. Worthington, Minnesota.
R. Altoona to Pella, Iowa.
S. Carlisle, Indianola, Iowa.
T. Omaha, Nebraska (between milepost 502 to milepost 504).
U. Earlham (milepost 388.6) to Dexter, Iowa (milepost 393.5).

8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*
A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.
B. Washington, Iowa.
C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

9. *Davenport, Rock Island and North Western Railway Company (DRI):*
A. Davenport, Iowa.
B. Moline, Illinois.
C. Rock Island, Illinois, including 26th Street yard.
D. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.
E. from East Moline to Silvis, Illinois.
F. from Davenport to Iowa City, Iowa.
G. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal.

10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana

11. *St. Louis Southwestern Railway Company (SSW):* operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.

12. *Little Rock & Western Railway Company:* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

13. *Missouri Pacific Railroad Company:* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

14. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*
A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth
B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas
C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma
D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas
E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only
F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.
G. Rock Island right to use interchange tracks to interchange with the Great Southwest Railroad Company located in Grand Prairie, Texas.
H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.
I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles.
J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.
K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

15. *The Denver and Rio Grande Western Railroad Company:*
A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

16. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port Dictrict. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

17. *St. Louis-San Francisco Railway Co.:*
A. At Okeene, Oklahoma.
B. At Lawton, Oklahoma.

18. *Southern Railway Company:*
A. At Memphis, Tennessee.

19. *Cadillac and Lake City Railroad:*
A. From Sandown Junction (milepost 0.1) to an including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

20. *Baltimore and Ohio Railroad Company:*
A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

21. *Louisiana Midland Railway Company:*
A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

22. *Cedar Rapids and Iowa City Railway Company (CIC):*
A. From the west intersection of Lafayette Street and South Capitol Street, Iowa

City, Iowa, southward for approximately 2.2 miles, terminating at the intersection of the RI tracks and the southern line of Section 21, Township 79 North, Range 6 West, Johnson County, Iowa, including spurs of the main trackage to serve various industry; and to effect interchange with the Davenport, Rock Island and North Western Railway Company.

23. *Keota Washington Transportation Company:*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

24. *The La Salle Bureau County Railroad Company:*

A. From Chicago (milepost 4.26) and Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

[2]B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), to Blue Island Illinois.

[2]Added.

Appendix B

Line No. and location to be operated	Railroads using	Rock Island functions to be performed
1—Rock Island Jct., IL. switches	CO/BO, CWPS, CR, CSL	Track maintenance.
2—To ICG connection Cottage Ave., Chicago, IL	CWPS	Track maintenance.
3—Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4—Chicago, IL, Regional Port, District lake, Calument Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5—Chicago (LaSalle St. Station)—Joliet, IL	RTA	Dispatching performed at Des Moines, IA (Suburban train operation).
5a—Joliet, IL—16th and Clark Streets	ICG, RTA	Interlocking Towers.
6—Moline—East Moline IL crossing signals	BN, DRINW	Highway crossing signal maintenance.
7—Rock Island, IL—28th Street	BN	Switchtender handles crossing and BN switches.
8—West Davenport—Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9—Burlington—Mediapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10—Eddyville—Beacon, IA	CNW	Track maintenance.
11—Cedar Rapids, IA—4th Street trackage	ICG	Track maintenance.
12—Cedar Rapids, IA—9th Avenue crossing	CNW	Control of CNW–RI crossing and highway crossing signal maintenance.
13—Waterloo, IA—McKinley Street crossing signals	CNW	Highway crossing signal maintenance.
14—Iowa Jct.—Hollis, IL (Peoria Terminal Co.)	TPW	Track maintenance; dispatching performed by Peoria yardmaster.
15—Des Moines (Easton Blvd.) West Des Moines, IA	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals—switches controlled at Short Line Tower (Automatic Block Signal).
16—Almena Jct.—CB&Q Jct. KS (Oronoque)	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17—Colorado Springs—Roswell Industrial District, CO	ATSF	Track maintenance.
18—Council Bluffs, IA—6th, 7th, 8th Sts. crossing signals	BN	Highway crossing signal maintenance.
18a—Council Bluffs, IA, vicinity BN of 14th Street	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19—Albert Lea—Glenville, MN	CNW–ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20—Glenville—MN—Manly, IA	CNW	Operator at Manly.
21—Inver Grove—South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22—Limon, CO	UP	Operator.
23—Polo—Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24—Atchison, KS—St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25—Wathena—Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26—Herington, KS—MP crossing interlocking	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signalling on MP cleared directionally).
27—Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (Line not in service at present).
28—Marion—Peabody, KS	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK, which controls CTC.
29—McAlester—Shawnee, OK	MKT	Track and signal maintenance; dispatching performed at El Reno.
30—Shawnee—Oklahoma City, OK	ATSF–MKT	Track and signal maintenance; dispatching performed at El Reno.
31—Oklahoma City "North Lines" Industrial Tracks	ATSF	Track maintenance.
32—Malvern—Hot Spring, AR	MP	Dispatching performed at El Reno, OK.
33—Fort Worth—Dallas, TX	FWD, SLSF, MKT/OKT	Track and signal maintenance dispatching performed at El Reno, OK, Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company has responsibility for supervision and maintenance of tracks, signals, and dispatching at El Reno, OK, which controls CTC.
34—Dallas, TX Right of District (formerly Dallas Union Terminal)	MP, MKT, FWD, ATSF, SP, SSW, SLSF.	Track and signal maintenance; maintain and control operation from towers, Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
35—Dallas, TX—Cadix St. Yard	LA	Track maintenance.
36—Saginaw, TX	FWD, ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
37—Memphis, TN, Section "A" trackage (1,460 feet) owned by LN	ICG, LN, SOO	Track maintenance.
38—Briark—West Memphis, AR	SSW–MP	Track and signal maintenance; dispatching performed at El Reno, OK: CTC controlled from Kentucky St.
39—West Memphis—Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
40—Irving—Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
41—Iowa Falls, IA	ICG	Interlocking towers.
42—Rock Island Junction, AR to Hermitage, AR	WSR	Maintenance.
43—Thompson, NE	BN	Diamond crossing maintenance.
44—Beatrice, NE	BN	Diamond crossing maintenance.
45—Centerville, IA	BN	Interlocking plant maintenance and operation.
46—La Salle, IL	BN	Diamond crossing maintenance.
47—Ottawa, IL	BN	Interlocking plant maintenance.
48—Colona, IL	BN	Interlocking plant maintenance.
49—St. Joseph, MO	BN	Diamond crossing maintenance.

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49 CFR Part 1121

[Ex Parte No. 274 (Sub-6)]

Abandonment of Railroad Lines and Discontinuance of Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: The Staggers Rail Act of 1980, Pub. L. 96–448, makes several significant changes in the law governing railroad abandonments and discontinuance of service. Significantly, the Act sets new deadlines for the Commission to render decisions on applications. Also, the law governing procedures for making offers of financial assistance, either to subsidize continued operations or to purchase the involved line of railroad, has been changed in several important respects. The Act also affects our handling of applications filed prior to October 1, 1980.

To comply with the new Act, we must revise parts of the existing regulations. Because the Act is effective retroactively to October 1, 1980, we are publishing these interim rules to be used until final rules are adopted. Comments are requested on the feasibility of these interim rules as final rules.

DATE: Comments should be submitted on or before December 26, 1980.

ADDRESS: Send comments (original and 15 copies) to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ellen D. Hanson (202) 275–7245,
or
Edward J. O'Meara (202) 275–7963.

SUPPLEMENTARY INFORMATION: The Staggers Rail Act of 1980 amends 49 U.S.C. 10903–10905, those sections of the Act governing the Commission's regulation of railroad abandonments and discontinuance of service. These changes require us to revise in part our regulations at 49 CFR 1121, "Abandonment of Railroad Lines and Discontinuance of Service." The revisions reflect the new Act's directives on the manner in which abandonment and discontinuance applications are to be handled.

The appendix to this notice lists an interim version of the amended rules.

Interim Use of Rules

These rules will be used by the Commission on an interim basis. For the most part the interim rules merely restate the procedural requirements mandated by the new Act. Where the interim rules are procedural, notice and comment for the rules are not required under the Administrative Procedure Act, 5 U.S.C. 553(b)(A). Those few parts of the revised regulations that appear in the interim rules and may be considered substantive changes do not demand notice and comment because the Commission finds that good cause exists to forego notice and comment pursuant to 5 U.S.C. 553(b)(B). The Commission is faced with an impractical situation in which the due and required execution of the agency functions would be delayed by undertaking a rule-making prior to the adoption of any rules. The new Act is effective as of October 1, 1980. The Commission must act to notify the public how abandonment applications will be handled to abide by the directives in the new Act.

Public comments are invited on these interim rules as a basis for final rules. We shall act as quickly as possible in formulating final rules.

Summary of Revisions

A. 49 CFR 1121.30 *Notice of Intent To Abandon Line or Discontinue Service*

The new Act requires an applicant to certify that the posting and publication requirements have been satisfied "within the most recent 30 days prior to the date the application is filed." Presently, under 49 CFR 1121.30(b), service of the notice must be completed "at least" 15 days prior to the actual filing date of the application. The revised paragraph (b) would set the earliest service at 30 days before filing. The applicant's certification itself is adequately covered now at 49 CFR 1121.34(b).

B. 49 CFR 1121.31 *Form of Notice*

The form of the notice published and served by an applicant has been revised to reflect how the new Act changes interested parties' participation in abandonment or discontinuance proceedings. These changes are discussed more fully below in section D.

C. 49 CFR 1121.32 *Contents of Application*

Section 1121.32(a)(5), requiring the applicant to give the proposed effective date of the abandonment or discontinuance, is deleted. That information is no longer needed because of the changes made in the new Act in determining effective dates of abandonments.

D. 49 CFR 1121.36 *Participation in Abandonment or Discontinuance Proceedings*

The new Act changes in certain respects the public's participation in abandonment and discontinuance proceedings. Before the new Act, when any party petitioned for an investigation of the proposed abandonment, the Commission was required to institute an investigation. The decision to investigate is now wholly discretionary with the Commission.

On the other hand, prior to the new Act, the Commission could, on its own initiative, begin an investigation even if no petitions to investigate were filed. Now, if no protests are filed the Commission must approve the application and issue a certificate authorizing the abandonment or discontinuance.

The revised rules for participation in proceedings reflect the new Act's directive that protestants have 30 days from the date the application is filed to file their protests. Parties previously had 35 days under the Commission's regulations to file comments or petitions to investigate. For those applications filed between October 1, 1980, and the date this Notice is published in the **Federal Register**, and in those instances where applicant's notice to the public indicated a protest period of 35 days, the Commission will continue to accept comments up to 35 days after the application is filed, in the interest of fairness to those commentators. The Commission's duties under the new Act and these interim rules, however, will not be changed by the additional 5 days for acceptance of comments.

The discussion in the old rules about written comments and petitions to investigate is removed in the interim rules. Written comments and protests are now discussed. Protests must contain information formerly prescribed for petitions to investigate. As noted, receipt of protests does not command an automatic investigation as it once did. All comments and protests will be reviewed to determine whether an investigation is needed to assist in determining what disposition to make of an application. This determination must

be made by the 45th day after the date the application is filed.

Because the 15-day period between the last day for receipt of comments and protests and the day on which the Commission's decision to institute an investigation must be serviced is so short, all comments and protests must be addressed specifically to the Commission's Section of Finance, as set forth in the interim rules. Likewise, the short time frames demand that rail carrier applicants file their applications no sooner than indicated in the required notices.

The interim rules also establish time limits for the filing of various kinds of pleadings. These limits are necessary in order to assure Commission compliance with the deadlines established in the new Act. (The deadlines are set forth in the interim rules at 49 CFR 1121.37). These filing requirements differ from the ordinary time limits in the Commission's Rules of Practice, 49 CFR 1100. For example, if a pleading or comment is due on a date which happens to fall on a weekend or holiday, the filing deadline is normally considered to fall on the next working day following the weekend or holiday. See 49 CFR 1100.4(b) and 1100.19. The interim rules are different in that any filing in an abandonment or discontinuance proceeding is due on the *previous* working day if the deadline falls on a weekend or holiday.

The schedule for filing verified statements under the modified procedure also differs from normal practice. This is because the Commission has only 90 days to conduct an investigation once an investigation is instituted. See 49 CFR 1121.37(b)(2). Allowing for a reversal of a decision not to investigate a proposal (parties are given 15 days to file appeals from such a decision), the shortened schedule set forth in the interim rules is necessary to allow timely completion of the investigation. Applicants are given only 15 days to file verified statements. It is the Commission's experience, however, that this should be enough time for applicants to prepare their evidence. Any significant opposition would be known long before the decision instituting an investigation is served, so that applicants will actually have much longer than the 15 days to prepare evidence. No motions to strike all or portions of any verified statement will be allowed because the short time limits set forth in the Act do not allow sufficient time to entertain motions and replies within the time allowed to complete the investigation. The Commission, reserves the right to strike material on its own initiative, and will do so under the traditional criteria for such actions.

Time does not allow cross examination at oral hearing of any witness submitting evidence under the modified procedure. Therefore, Rule 51 of the Commission's Rules of Practice, 49 CFR 1100.51, will not apply to abandonment procedures.

The short schedule for investigations set out in the new Act requires the expeditious handling of oral hearings where such hearings are considered necessary to develop evidence fully. Where oral hearings are scheduled, the Commission expects and insists that parties work as closely as possible in the prehearing stages to ensure that problems (such as discovery matters) can be solved without delay or Commission intervention. Parties are expected to make underlying work papers used in developing evidence easily accessible to opposing parties.

The oral hearing will be for the purpose of cross examination of witnesses who have submitted their direct evidence in the form of verified statements in advance of the oral hearing. Applicant's verified statements will be due 15 days from the date the oral hearing is set; protestants verified statements will be due 40 days after the date the oral hearing is set; and applicant's rebuttal evidence may be submitted in direct testimony at the hearing.

Where possible, a time and place for oral hearing will be set forth in the decision instituting an investigation (which is required to be issued no later than 45 days after the filing of the application.).

The Commission anticipates that the hearing will be held 10–14 days after protestants' verified statements are due. Assuming that any hearing should take no longer than one week, the 20 days provided for in the interim rules for submission of post hearing briefs should conclude the investigation in advance of the deadline with very little time to spare. No delays can be allowed under this schedule.

All appeals from any decision in an abandonment or discontinuance proceeding shall be considered only at the discretion of the Commission. The criteria set out at 49 CFR 1121.37(e) essentially combine the Commission's discretionary criteria listed for reopenings and reconsiderations found at 49 U.S.C. 10327(g)(1) and (2). The new Act specifically addresses appeals only in regard to Commission decisions following investigations. 49 U.S.C. 10904(c)(3). Congress clearly provided only for discretionary appeals. The Commission will extend this appellate review procedure to all decisions involving abandonments or discontinuances.

E. 49 CFR 1121.37 *Commission Determination and Certification Under 49 U.S.C. 10904*

The new Act requires the Commission to revise entirely this section of the abandonment regulations. The Act expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon applications, depending on the complexity of and the opposition to the application. For example, under the previous law, there was no time limit within which an investigation of an application had to be concluded. The new Act places a time limit of 135 days upon such investigations.

The interim rules simply incorporates from the Act deadlines pertaining to issuances of decisions and certificates and effective dates of such certificates.

The deadlines are the outside limits allowed for any action. For example, the Commission must issue a decision "within 75 days" after an application is filed where protests are received but no investigation is conducted. However, in some instances the Commission may choose to issue its decision long before the 75th day, even as early as the 45th day after the application is filed.

F. 49 CFR 1121.38 *Financial Assistance Procedures*

The new Act also makes significant changes in the procedures relating to offers of financial assistance from shippers and government entities who wish to see service continue on the involved railroad line.

The Act introduces for the first time a procedure which allows a party to request the Commission to set conditions and amount of compensation for subsidy or line acquisition if the offeror and applicant rail carrier are unable to reach an agreement following a negotiating period. The Commission decision would be binding on both parties, although the offeror could withdraw its offer within 10 days of the Commission's decision. This procedure is set forth in the interim rules.

The deadlines for actions by parties and the Commission are sharply reduced in the new Act. Offers must be filed no later than 10 days after publication of the Commission's findings on an application in the **Federal Register**; previously, offerors had 15 days. The Commission must evaluate the offer (or offers, if more than one is made) within 15 days after publication, whereas it previously had 30 days. The evaluation is to determine whether a

"financially responsible person" has offered financial assistance which satisfies certain specified criteria. With these extremely tight frames, it is imperative that the time limits computation set out in the interim rules at 49 CFR 1121.36(d)(1) and (2) be adhered to strictly, and that all filings be addressed to the Commission's Section of Finance so that delivery may be expedited.

Treatment of Pending Applications

The new Act without question applies to applications filed on or after October 1, 1980. As noted earlier, the Commission will continue to accept protests to applications for 35 days after the application is filed, if the application is filed before this Notice is published, and also if the applicant's notice to the public states that commentators have 35 days to file protests. Fairness requires this procedure.

For those applications filed before October 1, 1980, the Commission will apply the interim rules wherever possible. For example, if a decision on an application filed prior to October 1, 1980 is rendered after this Notice is published, the interim rules governing appeals (1121.36(d)(4)(C) and 1121.36(e)) and financial assistance procedures (1121.38) shall apply.

Also, in the circumstance where a certificate is issued after an investigation, and after publication of notice of these interim rules, the effective date of the certificate shall be governed by the periods set out in the new Act and in the interim rules. Previously, such a certificate would have taken effect on the 120th day after the issuance. The new Act states that any such certificate must be made effective within 75 days of the Commission's final decision. The Commission believes it is the intent of Congress to expedite the effective date of abandonment certificates. Therefore, the Commission shall make certificates issued following an investigation effective anywhere from the date of issuance to 75 days following its final decision.

Summary

We adopt the interim revisions as set forth in the Appendix, and we will operate under these rules until further notice.

These action do not appear to affect significantly the quality of the human environment or the conservation of energy resources. The interim adoption of these rules is required to carry out the purpose, findings, and changes made by the Staggers Rail Act of 1980.

These actions are taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: November 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam (Concurring)

Clearly the intent of section 402 of the Staggers Rail Act of 1980 is to expedite the abandonment process. This intent is evidenced by the fact that under the new Act if no protests are filed the Commission must approve the application and issue a certificate authorizing the abandonment or discontinuance.

On the other hand, in opposed cases, the Act vests the Commission with considerable latitude. In fact, if a party to an abandonment proceeding petitions for an investigation, the Commission is no longer required to institute an investigation; investigations are now *solely* within the Commission's discretion. It is my concern that the Commission not make ill-use of this latitude by willfully failing to investigate or by routinely granting opposed abandonment applications. The Commission's duties under the new Act and these interim rules should continue to be that of providing a regulatory process that balances the needs of carriers, shippers and the public, alike.

Appendix

The following sections of the Commission's regulations at 49 CFR Part 1121, "Abandonment of Railroad Lines and Discontinuance of Service," are amended on an interim basis.

1. Revise paragraph (b) of § 1121.30 as follows:

§ 1121.30 [Amended]

* * * * *

(b) The posting and publication requirements of this section must be completed within the 30-day period prior to the actual filing of the application. Service must be complete at least 15 days, and not more than 30 days, prior to the actual filing date.

2. Revise § 1121.31 as follows:

§ 1121.31 Form of notice.

The notice of intent to abandon or to discontinue service shall be in the following form:

No. AB ——— (Sub-No. ———)

Notice of Intent To Abandon or To Discontinue Service

(Name of Applicant) hereby gives notice that on or about (insert date application will be filed with the Commission) it intends to file with the Interstate Commerce Commission, Washington, D.C. 20423, an application for a certificate of public convenience and necessity permitting the abandonment of (the discontinuance of service on) a line of railroad known as ——— extending from railroad milepost ——— near (station name) to (the end of line or rail milepost) near (station name) a distance of ——— miles, in ——— County(ies), State(s). The line for which the abandonment (or discontinuance) application will be filed includes the stations of (list all stations on the line in order of milepost number, indicating milepost location).

The reason(s) for the proposed abandonments (or discontinuance) is (are) ——— (explain briefly and plainly why the proposed action is being undertaken by the applicant).

This line of railroad has appeared on the system diagram map in category 1 (§ 1121.20(b)(1)) since (insert date).

The interest of railroad employees will be protected by (specify the appropriate conditions).

Any interested person, in response to this notice, is entitled to file with the Interstate Commerce Commission written comments in support of the proposed abandonment (or discontinuance) or protests to it.

Protests to the proposed abandonment (or discontinuance) shall be in the form of a verified statement, and at a minimum contain:

(1) Identification of protestant including its name, address, and business;

(2) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(3) Specific reason(s) for opposing the abandonment (or discontinuance), including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit or personal knowledge of the facts;

(4) Any rebuttal of information or material submitted by applicant; and

(5) Request for oral hearing and reasons therefor, if desired.

In addition, any commenter or protestant may provide a specific statement of position and summary of

evidence with regard to any or all of the following:

(1) Intent to offer financial assistance;

(2) Environmental impact;

(3) Impact on rural and community development;

(4) Suitability of the properties for other public purposes; and

(5) Recommended provisions for protection of the interests of employees.

Written comments and protests will be considered by the Commission in determining whether an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear.

Those parties filing protests to the proposed abandonment (or discontinuance) should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements. Parties seeking information concerning the filing of protests should refer to 49 CFR 1121.36.

Written comments and protests should indicate the proceeding designation No. AB ——— (Sub-No. ———) and should be filed with the Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than (insert the date 30 days after the date applicant files its application). Interested persons may file a written comment or protest with the Commission to become a party to this abandonment (or discontinuance) proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant (insert name and address). The original and 2 copies of all comments or protests shall be filed with the Commission together with a certificate of service.

If no protests are *received* within 30 days after the application is filed, the Commission will find that the public convenience and necessity require or permit the abandonment (or discontinuance). In such a case, the Commission will, within 45 days after the application is filed, issue a certificate which permits the abandonment (or discontinuance) to occur within 75 days after the application is filed.

The line of railroad sought to be abandoned (or discontinued) is available for subsidy or sale in accordance with applicable laws and regulations (49 U.S.C. 10905 and 49 CFR 1121.38). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address).

Persons wishing further information concerning abandonment procedures may contact the Interstate Commerce Commission's Section of Finance, Office of Proceedings or the Commission's Rail Services Planning Office, or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1121.

A copy of the application will be available for public inspection on or after (insert date abandonment application is to be filed with Commission) at each agency station or terminal on the line proposed to be abandoned or discontinued (if there is no agency station on the line, the application shall be deposited at any agency station through which business for the line is received or forwarded) [insert name, address, location and business hours]. The carrier shall furnish a copy of the application to any interested person proposing to file a written comment or protest, upon request.

§ 1121.32 [Amended]

3. Delete paragraph (a)(5) of § 1121.32 and redesignate:

§ 1121.32(a)(6) as § 1121.32(a)(5)
§ 1121.32(a)(7) as § 1121.32(a)(6)
§ 1121.32(a)(8) as § 1121.32(a)(7)
§ 1121.32(a)(9) as § 1121.32(a)(8)

4. Revise § 1121.36 as follows:

§ 1121.36 Participation in abandonment or discontinuance proceedings.

(a)(1) Interested persons may become parties to an abandonment or discontinuance proceeding by filing with the Commission written comments or protests. Protests to an abandonment or discontinuance shall be in the form of a verified statement and, at a minimum, contain:

(i) Identification of protestant including its name, address, and business;

(ii) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(iii) Specific reason(s) for opposing the abandonment or discontinuance, including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit of personal knowledge of the facts;

(iv) Any rebuttal of information or material submitted by applicant; and

(v) Request for oral hearing and reasons therefor, if desired.

(2) In addition, any commentor or protestant may provide a specific statement of position and summary of evidence with regard to any or all of the following:

(i) Intent to offer financial assistance;

(ii) Environmental impact;

(iii) Impact on rural and community development;

(iv) Suitability of the properties for other public purposes; and

(v) Recommended provisions for protection of the interests of employees.

(3) Written comments and protest will be considered by the Commission in all proceedings in determining whether an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear. Those parties filing protests should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements.

(b) *Employee or employee representative participation.*

(1) In each abandonment or discontinuance proceeding in which the application is granted, employee protective conditions at least as beneficial to the interests of employees as provisions established pursuant to 49 U.S.C. 11347 and pursuant to section 405 of the Rail Passenger Service Act shall be imposed; and

(2) Employees or their representatives, may, but need not, file comments or protests because the Commission will impose in each proceeding the provisions for the protection of interests of employees pursuant to 49 U.S.C. 10903.

(c) *Filing and service of written comments and protests.* (1) Written comments and protests shall be filed with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423) within 30 days of the filing with the Commission of an abandonment or discontinuance application. The proposed date of filing of an abandonment or discontinuance application shall be included in the Notice of Intent required in §§ 1121.30–1121.31.

(2) An original and 2 copies of each written comment or protest shall be filed with the Commission.

(3) A copy of each written comment or protest shall be served on applicant or its representative at the time of filing

with the Commission. Each filing shall contain a certificate of service.

(d) *Time limits.*

(1) Pleadings, requests or other papers or documents (including any comments or protests and any appeal from a Commission decision) required or permitted to be filed under this part must be received for filing at the Commission's Offices at Washington, DC within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative, provided, however, that if such document is mailed by certified, registered or express mail postmarked at least 3 days prior to the due date, it will be accepted as timely filed.

(2) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is Saturday, Sunday, or a legal holiday in the District of Columbia, in which event the period runs until the end of the *prior* day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday. This rule shall apply to the measurement of time forward, as well as backward from a specified date.

(3) The Commission will reject any pleading filed after a specified due date unless good cause is shown why the pleading is filed late.

(4) *Modified Procedure.* If the Commission decides to institute an investigation, with submissions of evidence under the modified procedure, the following time limits shall govern the submission of evidence:

(i) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served;

(ii) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served; and

(iii) Applicant's reply verified statements due no later than 55 days after the date the decision instituting an investigation is served.

Under the procedure set forth above for submissions under the modified procedure, parties shall not be permitted to file motions to strike all or part of any evidence so submitted.

(5) *Oral Hearings.* (i) If the Commission decides to institute an investigation, and conduct an oral hearing on the application, the following time limits shall govern the submission of written evidence prior to the commencement of the hearing:

(A) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served; and

(B) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served. Any rebuttal evidence by applicant shall be received in the form of testimony at the oral hearing.

(ii) The oral hearing shall be for the primary purpose of cross examination of witnesses filing verified statements pursuant to paragraph (A) of this subsection. Any direct testimony, other than applicant's rebuttal evidence, shall be received at the discretion of the hearing officer.

(iii) Post hearing legal briefs shall be due on a date established at the hearing by the hearing officer; in no event shall the briefs be due later than 20 days after the close of the oral hearing.

(e) *Appellate Procedures.*—(1) *Scope of rule.* These appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the procedures in the Commission's General Rules of Practice, Rule 98, 49 C.F.R. 1100.98. Requests for appellate relief may relate either to initial decisions or to Commission actions other than initial decisions.

(2) *Appeals criteria.* No appeal of right is permitted. The Commission may entertain appeals in its discretion if it finds either of the following:

(i) the action involves a matter of general transportation importance, or

(ii) the action would be affected materially because of new evidence, changed circumstances, or material error.

(3) *Time limits.*

(i) An appeal from the Commission's decision not to institute an investigation shall be filed no later than 15 days after the date the decision is served.

(ii) Any appeal from the Commission's initial decision on an application (where no investigation is conducted) shall be filed no later than 15 days after the date the decision is served. Replies to any such appeal shall be filed no later than 25 days after the date the decision is served.

(iii) If the Commission conducts an investigation, any appeal from the initial decision shall be filed no later than 20 days after the date the initial decision is served. Replies to any such appeal must be filed no later than 35 days after the initial decision is served.

(4) *Form.* An appeal and any reply shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments.

(5) To the extent that an appeal requests further hearing, rehearing, reargument, or reconsideration, the appeal shall state in detail the nature of the relief requested and the reasons therefor. When in an appeal a party seeks an opportunity to introduce evidence, the evidence must be stated briefly, must not appear to be cumulative, and an explanation must be given why it was not previously adduced.

(6) The filing of an appeal shall not stay the effect of a prior action except that the Commission may stay the effect of the action upon its own motion or on petition. A petition to stay may be filed in advance of the appeal or petition to reopen and shall be filed within 10 days of service of the action. No reply need be filed. However, if a party elects to file a reply, it must reach the Commission no later than 16 days after service of the action.

(7) *Petitions to reopen administratively final actions.*

A person at any time may file a petition to reopen any administratively final action of the Commission. A petition to reopen shall state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances and shall include a request that the Commission make such a determination.

5. Revise § 1121.37 as follows:

§ 1121.37 Commission determination and certification under 49 U.S.C. 10904.

(a) If no written comments protesting an application are filed under § 1121.36, the Commission shall (i) find that the public convenience and necessity require or permit the abandonment or discontinuance, and (ii) no later than 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.

(b) Upon receipt of a protest to an application under § 1121.36, the Commission shall, no later than 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

(1) If no investigation is instituted, the Commission shall issue a decision no later than 75 days after the date the application is filed. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance, it shall issue a certificate no later than 90 days after the application is filed permitting the abandonment or discontinuance to

occur no later than 120 days after the application is filed.

(2) If the Commission decides to institute an investigation, the investigation shall be completed no later than 135 days, and an initial decision issued no later than 165 days, after the date the application is filed.

(i) The initial decision following an investigation shall become the final decision of the Commission unless, during the 30 days following the initial decision, the Commission decides to hear appeals in accordance with the criteria set forth in § 1121.36(e).

(ii) If an initial decision following an investigation is appealed, and considered by the Commission in its discretion, the Commission shall issue a final decision no later than 255 days after the date the application is filed.

(iii) Whenever the Commission finds, following an investigation, that the present or future public convenience and necessity require or permit the abandonment or discontinuance, the Commission will issue a certificate no later than 15 days following the final decision, permitting the abandonment or discontinuance to occur no later than 75 days following issuance of the final decision.

(3) A copy of the decision instituting an investigation of an abandonment or discontinuance application shall be served on the carrier which owns or operates the line of railroad or its representative. Copies of the decision shall also be served by the Commission on all parties which filed written comments and on all persons upon which copies of the application are required to be served under § 1121.34(c).

6. Revise § 1121.38 as follows:

§ 1121.38 Financial assistance procedures.

(a) An applicant for a certificate of abandonment or discontinuance shall provide promptly upon request to a party considering an offer of financial assistance and shall provide concurrently to the Commission the following:

(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(2) its most recent reports on the physical condition of that part of the line involved in the proposed abandonment or discontinuance; and

(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line.

(b) In any proceeding in which the Commission finds, after investigation or without investigation, that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of rail service, the Commission will, concurrently with service of the decision, publish the findings in the **Federal Register** as notice to persons intending to offer financial assistance to assure continued rail service under 49 U.S.C. 10905 and pursuant to this section of the regulations.

(c) *Submission of offers of financial assistance.*

(1) A prospective offeror shall serve any offer of assistance upon the carrier owning or operating the involved line and other parties to an abandonment or discontinuance proceeding. The offer shall also be filed concurrently with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423).

(i) An offer may be filed and served any time after the filing with the Commission of an abandonment or discontinuance application.

(ii) An offer must be filed and served no later than 10 days after publication in the **Federal Register** (as required in paragraph (b) of this section) of a Commission finding that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of service. This filing and service is subject to the requirements set forth in § 1121.36(d)(1).

(2) The offer as filed shall contain:

(i) An offer of financial assistance accompanied by a Proposed Subsidy Payment in the form prescribed in § 1121.46 or an offer to acquire all or a portion of the line accompanied by a detailed statement of the proposed acquisition cost and proposal for continued operations;

(ii) A resolution, authorization, or other evidence demonstrating that the offeror has, or within a reasonable time will have, the authority to execute and fulfill an agreement to subsidize or to acquire and operate the line;

(iii) Information demonstrating that the offeror has, or within a reasonable time will have, the financial resources to subsidize or acquire the line and otherwise to fulfill its contractual obligations; and

(iv) Information demonstrating that the financial assistance offered is likely to cover the difference between the revenues attributable to and avoidable costs of the line, plus a reasonable return on the value of the line, or the cost of acquisition and the proposed continued operation of the line.

(v) If the offer to subsidize or purchase the line is less than the carrier's estimate provided under paragraph (a)(1) of this section, the offeror shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

(3) If the offeror is not a government entity it shall also submit:

(i) A current, detailed balance sheet showing its financial condition as to the latest date available (not more than 90 days prior to the filing of the offer);

(ii) A statement of revenues, expenses, and net income for the current portion of the calendar year or offeror's fiscal year and statements for the two immediately preceding calendar or fiscal years or if not available, a statement from a bank or other financial institution attesting to the person's financial capability to discharge its obligations; and

(iii) Such additional information which, in the opinion of the offeror, is necessary or appropriate to support a finding that it is financially responsible.

(d) *Proposed subsidy payment.*

(1) An offeror of financial assistance for all, or a portion, of a line may formulate an offer of subsidy predicated upon the owning or operating carrier's base year net avoidable costs and reasonable rate of return or upon the carrier's projected subsidy year Estimated Subsidy Payment, as submitted in its abandonment or discontinuance application under § 1121.32(d).

(2) Alternatively, an offeror may compute its own Proposed Subsidy Payment using the methodology and form described in subpart D, the traffic, revenue, and other data contained in the abandonment or discontinuance application, and other evidence of record in the abandonment or discontinuance proceeding.

(e) *Proposed acquisition cost.*

(1) An offeror of financial assistance may also make an offer to acquire all or a portion of the line to be abandoned.

(2) In formulating its acquisition offer, an offeror may either accept the carrier's valuation of the properties, as submitted in its abandonment application under § 1121.32(d), or may have the properties appraised by a qualified and certified appraiser and may use either the valuation or the appraisal as its acquisition offer.

(3) An acquisition offer shall include a detailed statement of all items making up the offer, including a price certain and all terms and conditions.

(4) An acquisition offer shall include a detailed statement of the manner in which operations will be continued over the line after acquisition by the offeror, including, if applicable, a proposed operating agreement whereby the owning or operating carrier or another carrier will perform the operations.

(f) Upon receipt by the carrier of a written comment under § 1121.36 indicating an intent to offer financial assistance or upon receipt by the carrier of an actual offer of financial assistance, whichever occurs earlier, the carrier shall make available to the commenting party or offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.46). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

(g) *Commission's 15-day determination under 49 U.S.C. 10905.* If within 15 days after publication in the **Federal Register** of its finding that the abandonment or discontinuance should be permitted, as provided in § 1121.38(b), the Commission finds, consistent with 49 U.S.C. 10905, that a financially responsible assistance is likely to cover:

(1) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line; or

(2) The acquisition cost of all or any portion of the line,

then the Commission shall postpone the issuance of a certificate, or, if a certificate has been issued, postpone the effective date of the certificate, in accordance with paragraphs (i) and (k) of this section. The Commission shall determine whether the criteria in this paragraph have been met by each offeror if more than one offer is made (see paragraph (m) of this section).

(h) *Modified estimated subsidy payment.*

Offerors may request, and carriers shall provide, an estimated subsidy payment reflecting operations of less than the entire line.

(i) *Negotiations.*

(1) The carrier and the offeror are encouraged to negotiate an agreement for subsidy or acquisition before the issuance by the Commission of a final decision in an abandonment or discontinuance proceeding. The parties may agree to a final Estimated Subsidy Payment or acquisition price which varies from that contained in the application or in the offer, taking into account such factors as rate increases, changes in traffic level, and maintenance necessary to comply with minimum Federal Railroad Administration Class I safety standards, as projected for the subsidy year. The parties may also agree to provisions which modify the standards established under Subpart D of this part.

(2) When an agreement is reached, the parties shall promptly serve a verified copy on the Commission and on all parties to the abandonment or discontinuance proceedings.

(3) The Commission shall not consider an offer of financial assistance or any resulting agreement in making its initial finding on the merits of the abandonment or discontinuance application.

(j) *Agreement on financial assistance.*

(1) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate, or, if the certificate has been issued, the effective date of the certificate, for so long as the agreement, or an extension or modification of the agreement, is in effect.

(2) If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission will approve the transaction and dismiss the application for abandonment or discontinuance.

(k) *Failure to reach agreement on financial assistance.*

(1) If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation.

(2) If no agreement is reached within 30 days after the offer of subsidy or purchase is made, and neither party requests the Commission to establish the conditions and amount of compensation during that same period, the Commission will issue a certificate authorizing the abandonment or discontinuance no later than 50 days after notice is published under paragraph (b) of this section. Such certificate will be effective on the date of issuance. If a certificate had already been issued, and the effective date postponed by the Commission while the parties negotiated the offer of subsidy or purchase, the certificate will be effective 50 days after the date the notice is published under paragraph (b) of this section.

(l) *Requests to establish conditions and compensation for financial assistance.*

(1) If the Commission is requested to establish the conditions and compensation for financial assistance in accordance with paragraph (k) of this section, the Commission will issue its decision on the request no later than 60 days after the request is filed with the Commission and served concurrently on all parties.

(2) Because the applicant may receive multiple offers of financial assistance (see paragraph (m) of this section), no request to establish conditions and compensation shall be permitted prior to applicant's selection of the offeror with whom it wishes to transact business.

(3) Any party filing a request with the Commission to establish conditions and compensation for financial assistance shall provide reasons why its estimates are correct and why the other negotiating party's estimates are incorrect; points of agreement and points of disagreement between the negotiating parties; and evidence substantiating these allegations.

(4) Where subsidy has been offered, and no agreement has been reached, the Commission will determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line.

(5) Where an offer of purchase has been made in order to continue rail service on the line, and no agreement has been reached, the Commission will determine the price and other terms of sale. In no case will the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed by the parties, all facilities on the line or portion necessary to provide effective transportation services).

(6) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw its offer no later than 10 days after the date the Commission's decision is served, by notifying, in writing, the Commission, the applicant, and all other parties to the proceeding. If the offeror does withdraw its offer within this time, the Commission shall issue a certificate authorizing the abandonment or discontinuance no later than 20 days after the date the decision on the request for financial assistance is served, unless other offers are being considered pursuant to paragraph (m) of this section.

(m) *Multiple offers of financial assistance.* (1) If an applicant receives more than one offer to purchase or subsidize the line, the applicant shall select the offeror with whom it wishes to transact business. Applicant shall make

its selection known to the Commission and all parties, in writing, no later than 25 days after the date the notice is published pursuant to paragraph (b) of this section.

(2) When the applicant has received multiple offers of financial assistance, and has selected the offeror with whom it wishes to transact business, the negotiating parties shall complete the sale or subsidy agreement or request the Commission to establish the conditions and amount of compensation no later than 40 days after the date notice is published pursuant to paragraph (b) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request the Commission to establish the conditions and amount of compensation no later than 50 days after the date notice is published pursuant to paragraph (b) of this section. If no request by any other offeror is made, the Commission shall issue a certificate authorizing the abandonment or discontinuance no later than 60 days after the date notice is published pursuant to paragraph (b) of this section.

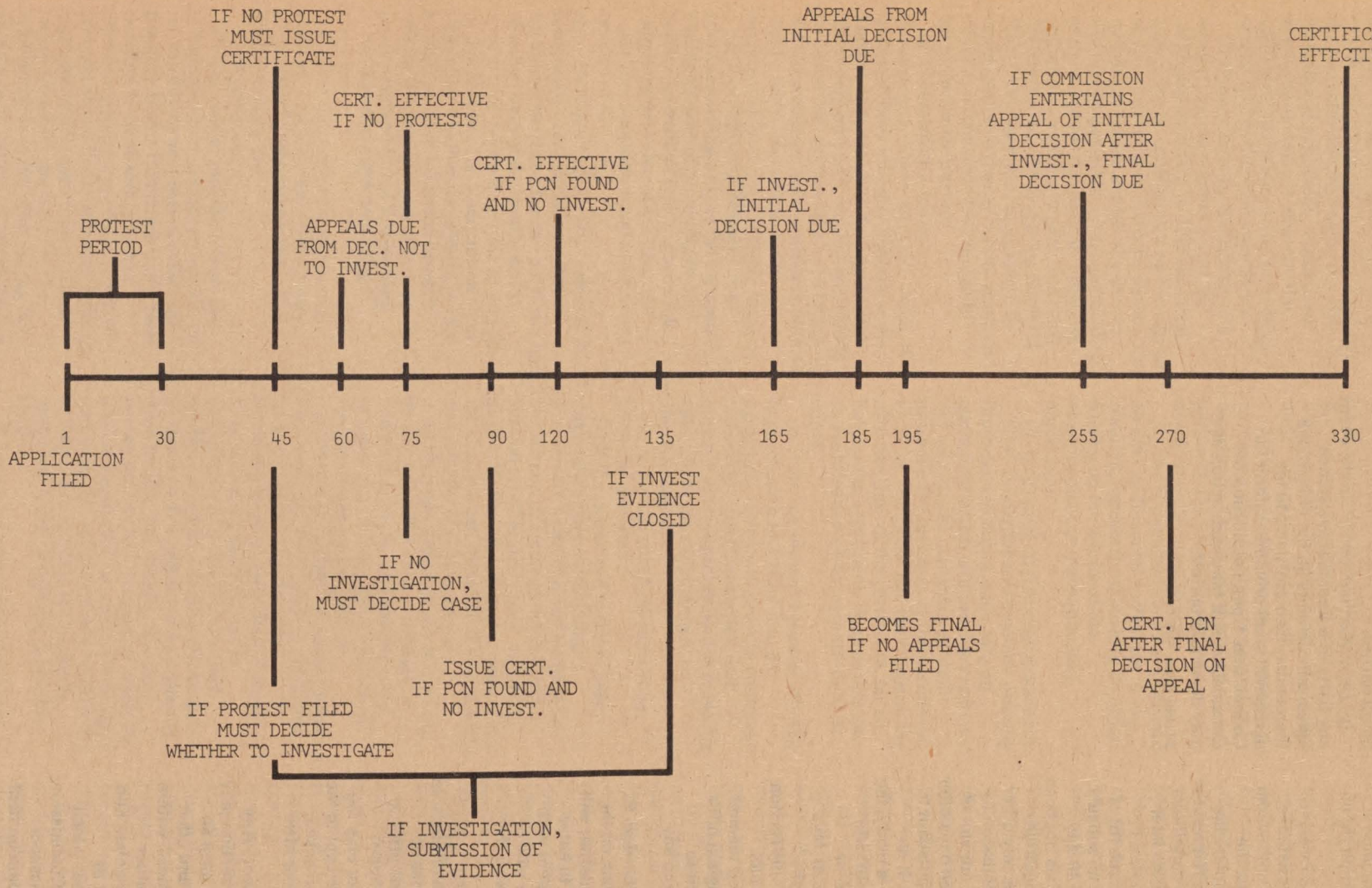
(3) When the Commission has established the conditions and amount of compensation, and the original offer has been withdrawn pursuant to paragraph (1)(6) of this section, any other offeror may accept the Commission's decision no later than 20 days after the date the decision on the request is served. The Commission will require the applicant carrier to enter into a sale or subsidy agreement with the subsequent offeror, if the sale or subsidy agreement incorporates the Commission's decision.

(n) *Disposition after sale.* No purchaser of a line or portion of line sold under this section may transfer or discontinue service on the line prior to the end of the second year after consummation of the sale. Nor may the purchaser transfer the line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

(o) *Discontinuance of subsidy.* Any subsidy provided under this section may be discontinued by giving at least 60 days notice to the applicant and other parties to the proceeding. Unless, within the 60-day notice period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was to be discontinued, the Commission will at the carrier's request, issue a certificate authorizing the abandonment or discontinuance of service on the line no later than 10 days after the date the carrier's request is filed with the Commission and served by the carrier on all parties.

(p) *Default on agreement.* In the event any party to a financial assistance agreement defaults on the obligations thereunder, then any party to the agreement shall promptly inform the Commission. Upon notification the Commission will take such action as it may deem appropriate.

BILLING CODE 7035-01-M



[FR Doc. 80-36866 Filed 11-24-80; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

Revision of the Special Rule on the American Alligator

AGENCY: Fish and Wildlife, Interior.

ACTION: Final rule.

SUMMARY: The Service revises the special rule on the American alligator, 50 CFR 17.42(a), promulgated under authority of the Endangered Species Act of 1973. Fabricators, who are engaged in the business of manufacturing products from American alligator leather, are no longer required to obtain a permit issued under the special rule. To insure that fabricators receive only lawfully taken American alligator hides, buyers and tanners engage in trade in American alligators remain highly regulated. The sale of meat and other parts except hides from lawfully taken American alligators is no longer restricted to the State where the taking occurs. These items may be sold nationwide if such sale is in accordance with the laws and regulations of: (1) The State in which the taking occurs, and (2) the State in which the sale occurs.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, NW., Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1980 (45 FR 52849), under authority of the Endangered Species Act of 1973 (hereinafter ESA), 16 U.S.C. 1533(d), the Service proposed to revise the special rule on the American alligator (*Alligator mississippiensis*), 50 CFR 17.42(a). Briefly, the Service proposed to revise the special rule to: (1) eliminate the permit requirement for fabricators under the special rule, and (2) allow the interstate sale of American alligator meat and parts other than hides.

Summary and Analysis of Comments and Actions Taken

The proposed rule invited comments for 30 days ending September 8, 1980. Comments were received from the following sources: Louisiana Department of Wildlife and Fisheries (Joseph V. Colson), Florida Game and Fresh Water Fish Commission (Col. Robert M. Brantly), South Carolina Wildlife and Marine Resources Department (James A. Timmerman, Jr.), Fund for Animals (Lewis Regenstein), and National Alligator Association (J. Don Ashley). The following summarizes the comments, suggestions, and actions taken.

1. *Definitions.* No comments were received on any of the proposed definition changes. However, the definition of "American alligator" has been reworded to identify more clearly the three separate populations of the species which are covered by the special rule.

2. *Prohibitions and Permits.* Four of the commenters supported as proposed the interstate sale of meat and parts except hides, and the deletion of the permit requirement for fabricators.

One commenter believed the proposal may threaten the future survival of the American alligator by relaxing the safeguards against poaching and loosening enforcement procedures. The Service believes a narrower, sharper focus for law enforcement will be achieved by concentrating Service enforcement resources on discrete points where trade is funneled. The Service will still closely monitor permittees, and vigorously enforce the taking prohibitions applicable to the species with the cooperation of State and local governments and private citizens. These measures appear to have reduced poaching and other illegal activities significantly and compliance with the special rule has been substantial.

Several commenters believed some of the application requirements for a buyer or tanner permit were unnecessary. These requirements, which are found at 50 CFR 17.42(a)(3)(A)(1)–(7), provide information which is necessary for effective permit administration. Because this information is requested only once, when an initial application is submitted, permittees are not unduly burdened by these requirements.

After reviewing all of the comments, the Service has decided that no substantive changes in the proposed rule are necessary. However, editorial changes and minor clarifications have been made, including the substitution of singular for plural nouns.

Refunds Available to Fabricators for Unused Marks (Labels)

Because fabricators no longer are required to obtain a permit under the special rule or affix a mark provided by the Service to each product made of American alligator hide, the Service is offering to refund the purchase price of any unused marks (labels) to fabricators. Information about refunds may be obtained by writing to: Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

National Environmental Policy Act

The Service also solicited comments on the draft environmental assessment prepared in conjunction with the proposal. No comments were received. The final assessment is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that this final rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Effective Date of This Rule

Because this rule is a substantive rule which grants or recognizes an exemption or relieves a restriction, the Service has determined to make it effective immediately under authority of 5 U.S.C. 553(d)(1).

Classification and Regulatory Analysis

The Department has determined that this document is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation:

Accordingly, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 reads as follows:

Authority: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (18 U.S.C. 42–44); Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846 (16 U.S.C. 852c); Migratory Bird Treaty Act, sec. 3, 40 Stat. 755 (16 U.S.C. 704); Bald Eagle Protection Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Tariff Classification Act of 1962, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States," 76 Stat. 72, Endangered Species Act of 1973, section 11(f), 87 Stat. 884; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480 (16 U.S.C. 742j–1); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Act of August 31, 1951, Ch. 376, Title 5, section 501, 65 Stat. 290 (31 U.S.C. 483a).

§ 13.12 [Amended]

2. Amend § 13.12(b) by amending "American alligator—buyer, tanner, or fabricator . . . . . 17.42(a)" to read "American alligator—buyer or tanner . . . . . 17.42(a)."

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

3. The authority citation for Part 17, reads as follows:

Authority: Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

4. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—reptiles.

(a) *American alligator (Alligator mississippiensis)*—(1) *Definitions.* For the purposes of this paragraph (a):

"American alligator" shall mean any member of the species *Alligator mississippiensis,* whether alive or dead, and any part, product, egg, or offspring thereof occurring: in captivity wherever found, in the wild wherever the species is listed under § 17.11 as threatened—similarity of appearance, or in the wild in Florida and in the coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico. From the Mississipi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 10; thence west on U.S. Interstate Highway 10 to junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border, thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguna Madre to the Nueces-Kleberg County line; thence east along the Nueces-Kleberg County line to the Gulf of Mexico.

"Buyer" shall mean a person engaged in buying a raw, green, salted, or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

(2) *Prohibitions.* The following prohibitions apply to the American alligator, except as provided by permits available under paragraph (a)(3) of this section.

(i) *Taking.* No person may take any American alligator, except:

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an American alligator without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen;

(*2*) Dispose of a dead specimen;

(*3*) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed in a remote area. Any taking pursuant to this paragraph (a)(2)(i)(A) must be reported in writing to the Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, within five (5) days.

(B) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement with the Service in accordance with section 6(c) of the Act which covers American alligators may, when acting in the course of official duties, take an American alligator to carry out scientific research or conservation programs.

(C) Any person may take an American alligator in the wild wherever listed under § 17.11 as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, subject to the following conditions:

(*1*) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(*2*) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(*3*) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts,

(*ii*) Indicates the quantity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(D) When an American alligator is taken by Federal or State officials in accordance with paragraphs (a)(2)(i) (A) or (B) of this section the hide, meat, and other parts may be sold by their respective agencies, subject to the following conditions:

(*1*) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(*2*) Any meat or other part except the hide is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(*3*) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts.

(*ii*) Indicates the quanity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any American alligator taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that a hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be imported or exported in accordance with Part 23 of this chapter.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any American alligator, except:

(A) A fully tanned hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be delivered, received, carried, transported, or shipped in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(B) Any meat or other part except the hide from a lawfully taken American alligator which is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs may be delivered, received, carried, transported, or shipped in interstate commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(3) *Permits.*—(i) *General.* Permits are available under § 17.32 (Permits—general) for all of the prohibited activities referred to in paragraph (a)(2) of this section. All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) for any of the prohibited activities referred to in paragraph (a)(2) of this section.

(iii) *Buyer or tanner.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer or tanner, authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer or tanner. Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category or categories (buyer and/or tanner) for which the permit is desired;

(*2*) A description of the applicant's business organization including:

(*i*) The location, mailing address, and description of the physical plant in which the activities under the permit will occur,

(*ii*) Experience with American alligators, if any, over the previous five years,

(*iii*) The names and addresses of all partners, directors, officers, shareholders in a close corporation, or other parties in interest in the business organization identified by their relationship to the business organization,

(*iv*) The name and address of any business organization affiliated with the applicant's business organization;

(*v*) The location where books or records concerning any recordkeeping required by paragraph (a)(3) of this section will be kept.

(*vi*) The location where inventories of American alligator hides and hides of any other species of the Order Crocodilia will be stored, and

(*vii*) The name, address, and telephone number of the person authorized to make books or records, or inventories available for examination by Service officials;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for the following items:

(*i*) All American alligator hides, and

(*ii*) All hides of any other species of the Order Crocodilia;

(*4*) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any partner, director, officer, principal, employee, agent, shareholder in a close corporation, or other party in interest in the business organization or any other business organization affiliated with such business organization.

(*5*) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodilia which at any time have been listed as "Appendix I" in § 23.23 of this chapter, to the extent records of such dealings are available;

(*6*) A foreign applicant must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(*7*) A foreign applicant must provide the name and address of an agent located in the United States upon whom legal process may be served; each applicant must include a certified copy of the power of attorney appointing such an agent and a certified copy of the written consent of such agent so appointed.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a buyer or tanner permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides, and all hides of any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this chapter, each permit issued under paragraph (a)(3)(iii) of this section is subject to the following special conditions:

(*1*) A permittee may not buy or tan any American alligator hide except one which was imported, exported, taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2) of this section;

(*2*) A permittee may sell, offer for sale, deliver, carry, transport, or ship a raw, green, salted, or otherwise untanned American alligator hide only to a holder of a valid Federal permit issued under paragraph (a)(3)(iii) of this section;

(*3*) A permittee may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia;

(*4*) A permittee must maintain complete and accurate inventory control and bookkeeping records in accordance

with the provisions of § 13.46 of this chapter for all transactions with American alligators and other species of the Order Crocodilia. For all such transactions, a permittee also must maintain on file a copy of any permit or other document required by Part 23 of this chapter or any other State, Federal, or foreign law;

(5) A permittee must file a written report in English with the Director by March 31 of each year concerning all transactions during the preceding calendar year ending December 31 involving American alligators and other species of the Order Crocodilia listed as "Appendix I" in § 23.23 of this chapter (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(6) A permittee may not transport or ship any American alligator hide unless a tag or label is affixed to the outside of any package or container used to transport or ship the hide which:

(*i*) Identifies its contents as American alligator,

(*ii*) Indicates the quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter;

(7) A buyer and/or tanner must leave the State tag on each hide; and

(8) A foreign permittee must maintain an agent in the United States upon whom legal process may be served; in the event of the death or inability to serve, or the resignation or removal of such person, the permittee shall immediately appoint a successor.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section with a live American alligator which has been born in captivity or lawfully placed in captivity.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a). In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligator for which a permit is sought has been held in captivity and was either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* Each permit issued under this paragraph (a)(3)(iv) is subject to the general conditions set forth in Part 13 of this chapter. In addition, any permit which authorizes the taking of an American alligator is subject to the following special conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where held in captivity with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State;

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts,

(*ii*) Indicates the quantity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(6) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this chapter concerning any taking of, or transaction involving, an American alligator; and

(7) The permittee must file a written report with the Director by March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-36678 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Proposed Adoption of a Uniform System of Accounts for Community Antenna Television Utilities

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration is considering adopting a uniform system of accounts to provide a guide for establishing and maintaining accounting and related records for Community Antenna Television Systems. REA is interested in receiving comments on the suitability of adopting the accounting standards or practices discussed in the Supplementary Information Section of this notice, to include any of the strengths or weaknesses of the systems mentioned. REA is also soliciting suggestions on the advisability of adopting a uniform system of accounts.

DATE: Public comments must be received by REA no later than: December 26, 1980.

ADDRESS: Persons interested in the proposal may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 477–7221.

SUPPLEMENTARY INFORMATION: REA is in the process of adopting a Uniform System of Accounts for Community Antenna Television Utilities. We have under review and consideration CATV accounting standards and practices developed by the National Association of Regulatory Utility Commissioners (NARUC), the New York State Commission on Cable Television, and the Price Waterhouse Chart of Accounts presented in FCC contract No. FCC–0177. In addition, we are considering the drafting of a new system of accounts adopting some of the accounting principles and standards of the three sources stated above.

REA would appreciate correspondents identifying and strengths or weaknesses found in the systems mentioned. For example, the NARUC system provides functional accounting in its classification of assets and costs, however, it does not discuss the appropriate accounting for systems development costs as addressed by the AICPA in its Statement of Position 79–2, "Accounting by Cable Television Companies". We would also appreciate information on any additional systems of accounts currently in use.

Copies of these documents are available for inspection in the Accounting and Auditing Division. copies of the NARUC "Uniform System of Accounts for Class A Community Antenna Television (CATV) Utilities" may be purchased at $5.50 each from:

National Association of Regulatory Commissioners, 1102 Interstate Commerce Commission Building, Constitution Avenue and Twelfth Street NW., P.O. Box 684, Washington, D.C. 20044.

This program is listed in the Catalog of Federal Domestic Assistance as 10.853-Community Antenna Television Loans and Loan Guarantees.

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: November 17, 1980.

Joseph Vellone,

Acting Assistant Administrator—Administration.

[FR Doc. 80–36777 Filed 11–24–80; 8:45 am]

BILLING CODE 3410–15–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 239

[Release Nos. 33–6262, 34–17305; File No. S7–853]

Proposed Availability of Simplified Registration Form to Certain Mining Companies

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: On October 7, 1980, the Commission proposed for comment amendments to Form S–18 which would allow certain issuers engaged in the mining business to register their securities on that Form. The proposed amendments included a new disclosure item on Form S–18 applicable to mining companies and similar amendments to Item 2 of Regulation S–K. The proposed amendments to Regulation S–K would be applicable to companies using registration forms other than S–18 and to companies subject to the continuous reporting requirements under the Securities Exchange Act of 1934. The Commission also recommended that Form S–3, currently available to certain start-up or unprofitable companies engaged in the mining business, be rescinded. The Commission is extending the period for submitting comments until December 21, 1980.

DATE: Comments should be submitted on or before December 21, 1980.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–853 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Michael J. Eizelman, Office of Small Business Policy, Division of Corporation Finance, (202) 272–2644. With respect to proposed item 7A of Form S–18 and Item 2(c) of Regulation S–K, contact Hubert W. Norman, Office of Engineering, Division of Corporation Finance, (202) 272–3257.

SUPPLEMENTARY INFORMATION: On October 7, 1980, in Release Nos. 33–6245

and 34–17179 (45 FR 68965) the Commission proposed for comment certain to Form S–18 (17 CFR 239.28) and Regulation S–K (17 CFR 229.20) and a proposal to rescind Form S–3 (17 CFR 239.13). These amendments, if adopted, would allow certain issuers engaged in mining operations to register their securities on Form S–18. In addition, new disclosure provisions for Form S–18 and Item 2 of Regulation S–K would require detailed information as to each of the mines, plants or other significant properties owned by mining companies, including those companies using registration forms other than S–18 and those companies subject to the continuous reporting requirements under the Securities Exchange Act of 1934.

It has come to the attention of the Commission that several interested persons initially were of the view that the proposed amendments related only to the availability of Form S–18 to certain small issuers engaged in the mining business. These persons have requested an extension of the comment period in order to submit their views regarding the amendments to Regulation S–K as they apply to larger mining companies.

The Commission recognizes the significant impact which the proposed amendments may have on the disclosure provided by larger mining companies by requiring such disclosure on a plant-by-plant basis and therefore wishes to give such companies ample time to express their views, particularly in light of an apparent misunderstanding as to the scope of the amendments. Interested persons are specifically requested to submit suggestions regarding the manner in which certain operations of such companies may be aggregated for disclosure purposes.

Accordingly, the Commission today has extended the period for the submission of written comments and views concerning the foregoing proposed amendments until December 21, 1980.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

November 14, 1980.

[FR Doc. 80-36700 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Parts 239, 249 and 274

[Release Nos. 33–6263, 34–17311, IC–11448, File No. S7–864]

Revisions of Investment Company Current Report Forms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed revisions to forms.

SUMMARY: The Commission is proposing three revisions to its Form N–1Q, which is used by most management investment companies to report the occurrence during the preceding calendar quarter of any one or more of twelve specified events. The Commission is proposing to replace the requirement that investment companies filing Form N–1Q list on a calendar quarterly basis certain information about their securities portfolio with a requirement that this information be reported annually on either Form N–1 or Form N–2. In addition, the Commission is proposing to limit Form N–1Q's requirement that reporting companies furnish information about matters submitted to votes of security holders. Finally, the Commission is proposing to revise Form N–1Q to require that reports be filed on a fiscal quarter rather than calendar quarter basis. The proposed revisions are designed to reduce the number of times management investment companies must file Form N–1Q reports and to make reporting on the form less burdensome for those companies.

DATE: Comments should be submitted on or before January 23, 1981.

ADDRESSES: Comments should refer to File No. S7–864 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. Comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Barry P. Barbash, Esq. (202) 272–2098 or Anthony A. Vertuno, Esq. (202) 272–2107, Division of Investment Management, Securities and Exchange Commission, Washington, DC. 20549.

SUPPLEMENTARY INFORMATION: The Commission is inviting comment on proposed amendments to its Form N–1Q (17 CFR 274.106). That form, adopted pursuant to section 30 of the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a–29) and sections 13 and 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78m, 78o(d)), is used by management investment companies to report the occurrence during the preceding calendar quarter of any one or more of twelve events specified in the form. A report on Form N–1Q must be filed within 30 days after the calendar quarter during which any of the specified events occurred.

Among the events an investment company required to file Form N–1Q must report on the form are changes in its securities portfolio and matters submitted to a vote of its security holders.[1] As explained in detail below, the effect of requiring these two events to be reported on Form N–1Q is to require most of those companies filing the form to submit it to the Commission four times a year. To reduce the number of times a reporting company must file Form N–1Q and for the reasons discussed below, the Commission is proposing to eliminate the reporting of portfolio changes on Form N–1Q and to modify the reporting of shareholder voting on the form.

1. Reporting of Changes in Securities Portfolios

(a) *Current Requirement and Reasons for Amendments.*

Item 1 of Form N–1Q, which was adopted by the Commission in 1967, (Investment Company Act Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967))), requires all management investment companies, except small business investment companies and certain venture capital companies, to report any acquisition or disposition of portfolio securities made during a calendar quarter. The first report filed pursuant to Item I and the first report filed pursuant to the item after the end of a calendar year must include information as to the reporting company's entire securities portfolio.

Virtually all investment companies required to file Form N–1Q engage in portfolio transactions during every calendar quarter and as a result must file Form N–1Q reports four times a year. The Commission has found that Form N–1Q is often filed for the sole purpose of reporting the occurrence of portfolio transactions. Having considered this reporting burden in light of the purposes for which the requirement was imposed, the Commission believes that it is appropriate to replace the requirement to include portfolio information on Form N–1Q with a requirement to include

[1] The other ten reportable events are as follows: (a) Changes in the reporting company's policies with respect to security investments; (b) legal proceedings involving the reporting company; (c) changes in the assets securing any class of debt of the reporting company; (d) defaults and arrears on the reporting company's senior securities; (e) changes in control of the reporting company; (f) changes in the constituent instruments defining the rights of the holders of any class of the reporting company's securities; (g) revaluation of the reporting company's assets or restatement of its capital share accounts; (h) changes in the reporting company's certifying accountant; (i) changes in the accounting principles and practices followed by the reporting company; and (j) any merger or consolidation of the reporting company with one or more other registered investment companies.

such information annually on either Form N–1 (17 CFR 239.15, 17 CFR 274.11) or Form N–2 (17 CFR 239.14, 17 CFR 274.11a–1).

Item 1 of Form N–1Q was adopted for three reasons. The information elicited by Item 1 was intended to aid the Commission in carrying out its regulatory responsibilities under the 1940 Act and in conducting studies of investment company portfolio transactions and their effects on the market place.[2] Item 1 was also adopted for the purpose of providing the public with information about the securities transactions of management investment companies.[3]

Although the Commission continues to believe that investment company portfolio transaction data is important, it has determined that it no longer needs to receive that information on a quarterly basis. Pursuant to its authority under Section 31(b) (15 U.S.C. 80a–30(b)) of the 1940 Act to inspect investment company books and records, the Commission can obtain current information about portfolio transactions. In light of its ability to inspect books and records, the Commission believes an annual reporting of investment company portfolio transactions would be sufficient to allow it to conduct studies of those transactions and to carry out its regulatory responsibilities under the 1940 Act effectively and efficiently.

The Commission believes further that any adverse effects on the public that could result from the elimination of quarterly reporting of portfolio transactions by investment companies would be minimal. It is not clear how much public use is made of reports filed in response to Item 1 of Form N–1Q. On one hand, only a limited number of requests have been made to the Commission by members of the public to inspect Form N–1Q reports. On the other hand, certain companies have determined that public interest in Form N–1Q information is significant enough to warrant their publishing tabulations of that information for sale to the public. In any event, the Commission is of the opinion that to the extent members of the public need information on a calendar quarterly basis concerning the portfolios of investment companies, those individuals can rely on information contained in Form 13F (17 CFR 249.325) reports filed pursuant to section 13(f) (15 U.S.C. 78m(f)(1)) of the 1934 Act.

[2] Investment Company Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967)).

[3] *Id.*

Form 13F is used by money managers that fall within the definition of "institutional investment manager" contained in section 13(f)(5)(A) of the 1934 Act (15 U.S.C. 78m(f)(5)(A)),[4] and that meet certain criteria set out in rule 13f–1 under the 1934 Act (17 CFR 240.13f–1), to disclose on a calendar quarterly basis the holdings of the accounts over which they exercise investment discretion. Among the money managers that typically meet the requirements of section 13(f) and rule 13f–1 and thus file Form 13F reports are investment advisers of registered investment companies. In filing form 13F reports, those investment advisers disclose the portfolio holdings of the investment companies they advise. Thus, since the adoption of rule 13f–1, investment company securities holdings are being reported on Form 13F as well as on Form N–1Q.

Although both Form 13F and Form N–1Q contain information about investment company portfolios, the information contained in the two forms is not identical,[5] nor is the information reported in the same manner on the two forms.[6] Nonetheless, the Commission believes that the differences between Form 13F reports and Form N–1Q reports do not prevent the former from being an adequate substitute for Form N–1Q reports as source of public information concerning investment company securities portfolios.

[4] An "institutional investment manager" is defined in section 13(f)(5)(A) of the 1934 Act as "any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person."

[5] The information contained in Form 13F reports is not identical to that contained in Form N–1Q reports for at least three reasons. First, under rule 13f–1, an institutional investment manager is required to file Form 13F only if it exercises investment discretion over accounts having $100,000,000 or more in certain equity securities on a specified date. Thus, the holdings of investment companies receiving investment advice from an adviser not meeting the $100,000,000 threshold would not be disclosed in a Form 13F report, even though those holdings would be disclosed in Form N–1Q reports filed by the companies. Second, unlike Form N–1Q, which requires the reporting of information about all securities held by investment companies, Form 13F requires holdings of only certain equity securities to be reported. Third, a Form 13F reporting manager is not required to include in its report holdings of fewer than 10,000 shares having an aggregate fair market value less than $200,000. Form N–1Q contains no similar exclusion.

[6] For example, whereas one Form N–1Q is filed by each reporting investment company and provides information about only the reporting company, an investment adviser filing Form 13F reports in the aggregate portfolio information with respect to all investment companies it advises. In addition, whereas Form N–1Q requires the reporting of a particular company's securities transactions during the calendar quarter, Form 13F requires the reporting of securities holdings as of the end of a calendar quarter.

(b) *Annual Reporting of Portfolio Transactions.* Rule 8b–16 under the 1940 Act (17 CFR 270.8b–16) requires management investment companies, other than small business investment companies, to update their 1940 Act registration statements annually. The Commission is proposing to amend Form N–1, which is used by open-end management investment companies to update their 1940 Act registration statements, and Form N–2, which is used by closed-end management investment companies for the same purpose, to require the reporting of certain portfolio information. Under the proposal, reporting companies would include in Part II of their annual updating form a table of portfolio information virtually identical to the table that is now required by Item 1 of Form N–1Q. Reporting companies would be required to show in a tabular format: (a) The number of shares (or other units) of equity securities or principal amount of debt securities acquired or disposed of for their portfolios during the preceding fiscal year; (b) their holdings of such securities and cash at the end of the fiscal year; and (c) their holdings of all other securities as of the end of the fiscal year.

The Commission has not included in its proposal for annual reporting of investment company portfolio transactions a confidential treatment provision similar to the one now contained in Item 1 of Form N–1Q. Instruction 8 to Item 1 provides generally for confidential treatment of information filed in a Form N–1Q report relating to a program of purchasing securities of a particular issue or issues engaged in by the reporting company both at the end of the calendar quarter and on the date the report is filed. Instruction 8 was made part of Form N–1Q in response to public comments maintaining that if a reporting company's current portfolio purchase program were disclosed the company might have to pay higher prices for the securities being purchased.[7] Because annual updates filed on either Form N–1 or Form N–2 cover greater time periods than does Form N–1Q, and because the time allowed for the filing of those annual updates is significantly longer than the time allowed for the filing of Form N–1Q,[8] the danger that a registrant will be involuntarily required to disclose

[7] Investment Company Act Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967)).

[8] Rule 8b–16 under the 1940 Act requires annual updates on either Form N–1 of Form N–2 to be filed within 120 days of the end of the reporting company's fiscal year, whereas Form N–1Q must be filed within 30 days after the end of a quarter in which a reportable event occurs.

sensitive information relating to an ongoing purchase program seems remote. Thus, the Commission believes that a provision resembling Instruction 8 to Item 1 of Form N–1Q does not need to be incorporated as part of the annual reporting requirement being proposed.

2. Reporting of Matters Submitted to Shareholders

Item 2 of Form N–1Q requires a reporting investment company to furnish certain information about any matter submitted to a vote of the company's securityholders during the preceding quarter year. Instruction 2 to the item provides, however, that the item need not be answered as to procedural matters, the selection or approval of auditors, and the uncontested election of directors. Instruction 2 reflects the Commission's belief that certain routine matters voted upon at shareholder meetings need not be reported on Form N–1Q.

The Commission is proposing to amend Instruction 2 to add voting on the continuation of the reporting company's current advisory contract to the list of routine matters that need not be reported under Item 2 of Form N–1Q.[9] The Commission expects that this amendment, together with the elimination of Item 1, would have the effect of appreciably reducing the number of Form N–1Q reports management investment companies must file.

3. Changing Filing Date of Form N–1Q.

Form N–1Q is now required to be filed within 30 days after the close of each calendar quarter during which any of the twelve events specified in the form has occurred. Calendar quarterly filing of Form N–1Q was adopted by the Commission to obtain information about portfolio transactions on a comparable time basis.[10] In light of its proposal to eliminate the requirement to include portfolio transaction information on Form N–1Q, the Commission is proposing to revise the form to require that reports to be filed 30 days after the end of an investment company's fiscal quarter in which any of the events specified in the form occurred. The Commission expects this change to make it easier for investment companies to file this report.

Text of the Proposed Amendments

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By amending §§ 239.15 and 274.11 by amending Part II of Form N–1 to add new item 11 to read as follows:

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

§ 274.11 Form N–1, registration statement of open-end management investment companies.

* * * * *

Part II. Other Information

* * * * *

Item 11. Changes in Portfolio Securities

If the registrant has acquired or disposed of any portfolio securities during the fiscal year, furnish the information specified below as to all portfolio securities owned by the registrant at the end of the fiscal year.

Item 11.—*Changes in Portfolio Securities: Number of Shares (or Other Unit), or Principal Amount of Debt Securities*

Name of issuer and title of issue (1)	Exchange symbol (2)	Purchases and other acquisitions (3)	Sales and other dispositions (4)	Owned at end of fiscal year (5)	SEC use (6)
1. U.S. Government Securities (short-term and long-term).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
2. Short-Term Debt Securities (other than U.S. Government.	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
3. Long-Term Debt Securities (other than U.S. Government):					
(a) Non-convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
(b) Convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
4. Preferred Stock:					
(a) Non-convertible	.....	Number of shares	Number of shares	.....	
(b) Convertible	.....	Number of shares	Number of shares	Number of shares	
5. Common stock	.....	Number of shares	Number of shares	Number of shares	
6. Options or Warrants to Purchase Common Stock or Other Securities (Specify).	.....	Number of options or warrants.	Number of options or warrants.	Number of options or warrants.	
7. Other Securities	.....	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	
Cash	.....	.....	.....	Dollars in thousands	

Instructions

1. This item shall not be answered by any registrant that is engaged principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities.

2. For the purpose of this item the term "U.S. Government securities" means any securities issued by the United States or by an instrumentality of the Government of the United States. "Short-term debt securities" means any securities payable on demand or having a maturity at the time of issuance not exceeding one year, or any renewal thereof payable on demand or having a maturity at time of renewal not exceeding one year. The term "long-term debt securities" means any debt securities other than short-term debt securities.

3. Except for U.S. Government securities and short-term debt securities, with respect to which only the totals for each such category shall be shown in columns (3) through (5), the required information shall be shown separately for each security acquired or disposed of by the registrant during the fiscal year even though the registrant may not have owned the particular security at the end of the year.

4. The principal amount of all U.S. Government securities and of all other short-term and long-term debt securities, and the amount of cash, shall be stated in the nearest thousand dollars. The numbers of shares or other units of other securities shall be stated in the nearest full share or other unit.

5. Set forth in column (2), as to each security registered or traded on a national securities exchange, the symbol assigned to such security by the exchange.

6. Any options or warrants which were attached to another security at the time of their acquisition shall be reported with, and in the category of, such other security. If one of such securities is disposed of separately, such disposition and the remaining holdings of the other security shall be reported in their

[9] The Commission's view that the determination to approve or disapprove a management investment company's current advisory contract is a matter that need not be reported was reflected in an earlier release authorized by the Commission setting forth its Division of Investment Management's review procedure applicable to preliminary proxy material. Securities Act Release No. 5988, October 19, 1978 (43 FR 49866 (October 25, 1978)). In that release, the Division of Investment Management indicated that the staff will ordinarily make no substantive review of proxy statements that have no proposals other than those relating to the uncontested election of directors, the ratification of the selection of accountants, and the continuation of a current advisory contract.

[10] Investment Company Act Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967)).

separate categories and explained by footnote.

7. Acquisitions or dispositions during the calendar fiscal year of shares which were thereafter increased by a stock dividend or stock split during such year shall be adjusted to reflect the additional shares, and the date and basis of such stock dividend or split shall be indicated briefly by footnote to the adjusted quantities in column (3) or (4). The increased number of shares of any security owned at the end of any fiscal year as the result of a stock dividend or split during such year shall be shown in column (5) and likewise indicated by footnote, irrespective of whether there were any other changes in the registrant's ownership of such security during the year. Any increase in shares resulting from a stock dividend on, or split of, shares owned at the beginning of the year shall not be shown as an acquisition in column (3). Similar adjustment and explanation shall be made with respect to any reverse stock split.

8. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any acquisitions of a security pursuant to rule 10f–3 (17 CFR 2470.10f–3) shall be indicated by footnote to the figures in column (3). Any security held in margin accounts or subject to option at the end of the fiscal year shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

9. If the registrant effected any short sale or any change in a short position in a security during the fiscal year, it shall set forth in a separate table in columnar form the name of the issuer of such security, the title of the issue, and the exchange symbol, if any, and, in numbers of shares, the short sales during the year, the short positions closed during the year, and the short position at the end of the year. Appropriate adjustment in numbers of shares shall be made to reflect any stock dividend or stock split during the year.

2. By amending §§ 239.14 and 274.11a–1 by amending Part II of Form N–2 to add new item 11 of read as follows:

§ 239.14 Form N–2 for closed-end management investment companies registered on Form N–8A.

§ 274.11a–1 Form N–2, registration statement of closed-end management investment companies.

* * * * *

Part II Other Information

* * * * *

Item 11 Changes in Portfolio Securities

Item 11.—*Changes in Portfolio Securities: Number of Shares (or Other Unit), or Principal Amount of Debt Securities*

Name of issuer and title of issue	Exchange symbol	Purchases and other acquisitions	Sales and other dispositions	Owned at end of fiscal year.	SEC use
(1)	(2)	(3)	(4)	(5)	(6)
1. U.S. Government Securities (short-term and long-term).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
2. Short-Term Debt Securities (other than U.S. Government).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
3. Long-Term Debt Securities (other than U.S. Government):					
(a) Non-convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
(b) Convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
4. Preferred Stock:					
(a) Non-convertible	.....	Number of shares	Number of shares	.....	
(b) Convertible	.....	Number of shares	Number of shares	Number of shares	
5. Common stock	.....	Number of shares	Number of shares	Number of shares	
6. Options or Warrants to Purchase Common Stock or Other Securities (Specify).	.....	Number of options or warrants.	Number of options or warrants.	Number of options or warrants.	
7. Other Securities	.....	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	
Cash	.....	.....	.....	Dollars in thousands	

Instructions

1. This item shall not be answered by any registrant that is engaged principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities.

2. For the purpose of this item the term "U.S. Government securities" means any securities issued by the United States or by an instrumentality of the Government of the United States. "Short-term debt securities" means any securities payable on demand or having a maturity at the time of issuance not exceeding one year, or any renewal thereof payable on demand or having a maturity at time of renewal not exceeding one year. The term "long-term debt securities" means any debt securities other than short-term debt securities.

3. Except for U.S. Government securities and short-term debt securities, with respect to which only the totals for each such category shall be shown in columns (3) through (5), the required information shall be shown separately for each security acquired or disposed of by the registrant during the fiscal year even though the registrant may not have owned the particular security at the end of the year.

4. The principal amount of all U.S. Government securities and of all other short-term and long-term debt securities, and the amount of cash, shall be stated in the nearest thousand dollars. The numbers of shares or other units of other securities shall be stated in the nearest full share or other unit.

5. Set forth in column (2), as to each security registered or traded on a national securities exchange, the symbol assigned to such security by the exchange.

6. Any options or warrants which were attached to another security at the time of their acquisition shall be reported with, and in the category of, such other security. If one of such securities is disposed of separately, such disposition and the remaining holdings of the other security shall be reported in their separate categories and explained by footnote.

7. Acquisitions or dispositions during the calendar fiscal year of shares which were thereafter increased by a stock dividend or stock split during such year shall be adjusted to reflect the additional shares, and the date and basis of such stock dividend or split shall be indicated briefly by footnote to the adjusted quantities in column (3) or (4). The increased number of shares of any security owned at the end of any fiscal year as the result of a stock dividend or split during such year shall be shown in column (5) and likewise indicated by footnote, irrespective of whether there were any other changes in the registrant's ownership of such security during the year. Any increase in shares resulting from a stock dividend on, or split of, shares owned at the beginning of the year shall not be shown as an acquisition in column (3). Similar adjustment and explanation shall be made with respect to any reverse stock split.

8. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any acquisitions of a security pursuant to rule 10f–3 (17 CFR 270.10f–3) shall be indicated by footnote to the figures in column (3). Any security held in margin accounts or subject to option at the end of the fiscal year shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

9. If the registrant effected any short sale or any change in a short position in a security during the fiscal year, it shall set forth in a separate table in columnar form the name of the issuer of such security, the title of the issue, and the exchange symbol, if any, and, in numbers of shares, the short sales during the year, the short positions closed during the year, and the short position at the end of the year. Appropriate adjustment in numbers of shares shall be made to reflect any stock dividend or stock split during the year.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. Amending the general instructions to Form N–1Q as follows:

§ 249.331 Form N–1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N–1Q, for quarterly report of registered investment company.

* * * * *

(A) General instruction A. is to be amended by deleting the word "calendar" in paragraphs (a) and (b) and inserting the word "fiscal" in its place.

(B) General instruction E. is to be eliminated.

(C) General instruction F. is to be redesignated general instruction E.

4. Amending Form N–1Q as follows:

§ 249.331 Form N–1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N–1Q, for quarterly report of registered investment company.

* * * * *

(A) Item 1 is to be eliminated.

(B) Instruction 2. to Item 2. is to be amended to read as follows:

* * * * *

Item 2. Submission of Matters to a Vote of Security Holders.

* * * * *

Instructions.

* * * * *

2. This item need not be answered as to (1) procedural matters, (ii) the selection or approval of auditors, (iii) the continuation of the current advisory contract, or (iv) the election of directors or officers in cases where there was no solicitation in opposition to the management's nominees, as listed in a proxy statement pursuant to rule 20a–1 under the Act (17 CFR 270.20a–1) and Regulation 14A under the Securities Exchange Act of 1934 (17 CFR 240.14a–1—240.14b–1), and all of such nominees were elected. This item may be omitted if action at the meeting was limited to the foregoing. In cases where the registrant does not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect will suffice.

(C) Items 2 through 13 are to be renumbered 1 through 12.

(Secs. 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78M and 78o(d) and Sections 8 and 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–8 and 80a–29)

By the Commission.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80–36701 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 436

[Docket No. 80N–0390]

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; Revised Standard Response Line Concentrations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the standard response line concentration for capreomycin, cycloserine, gramicidin, and troleandomycin in order to produce more accurate potency assay results. This revision is made in response to the results of a review conducted by the National Center for Antibiotic Analysis.

DATES: Comments by January 26, 1981; request for conference December 26, 1980.

ADDRESS: 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: Joan Eckert, Bureau of Drugs (HFA–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: The current regulations set forth in § 436.106(a) (21 CFR 436.106(a)) for the microbiological turbidimetric potency assay of capreomycin, cycloserine, gramicidin, and troleandomycin provide for standard response line concentrations that are 64, 80, 100, 125, and 156 percent of the reference concentration of the assay. The reference concentration of the assay is the midpoint concentration of the standard response line. A review of the standard response lines by FDA's laboratory, the National Center for Antibiotics Analysis, shows that variations in the assay prevent the straight line portion of the curve from extending far enough to include either the low or high standard response line concentrations of 64 and 156 percent. This problem can be eliminated by (a) raising the low concentration from 64 percent to 80 percent, (b) lowering the high concentration from 156 percent to 125 percent, and (c) recalculating the second and fourth standard response line concentrations. FDA has determined that when the samples are diluted to concentrations within the 80 to 125 percent range, more accurate potency concentration estimates are obtained.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979, 44 FR 71742) that this proposed 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. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 436 be amended in § 436.106(a) by revising the last column of the table to read as follows:

	Working standard stock solutions					Standard response line concentrations	
Antibiotic	Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent (solution number as listed in § 436.101(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
*	*	*	*	*	*	*	*
Capreomycin	* * *	* * *	* * *	* * *	* * *	* * *	80.0, 89.0, 100.0, 112.0, 125.0 µg.
*	*	*	*				

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in § 436.101(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Cycloserine	• • •	• • •	• • •	• • •	• • •	• • •	40.0, 44.5, 50.0, 56.0, 62.5 μg.
Gramicidin	• • •	• • •	• • •	• • •	• • •	• • •	0.032, 0.0356, 0.040, 0.0448, 0.050 μg.
Troleandomycin	• • •	• • •	• • •	• • •	• • •	• • •	20.0, 22.25, 25.0, 28.0, 31.25 μg.

§ 436.106 Microbiological turbidimetric assay.

* * * * *

(a) * * *

Interested persons may, on or before January 26, 1981 submit to the Dockets Management Branch (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 shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before December 26, 1980 submit to the Dockets Management Branch (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until November 26, 1980, or 30 days after the day of the conference, whichever is later, to submit their comments.

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 Dockets Management Branch, Food and Drug Administration.

Dated: November 18, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 80-36665 filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. SD-159]

Persons Who May Be Included in One Passport

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend its regulations to eliminate the current practice under which the name and photograph of an American citizen child under the age of 13 years may be included in the United States passport issued to the child's parent or sibling. As amended, the regulations would require that any citizen needing passport documentation to depart from or enter the United States must be in possession of a valid passport issued in his or her own name. The proposed amendment will not affect the validity of passports issued prior to the effective date of this amendment.

DATES: Comments must be received no later than December 26, 1980.

Proposed Effective Date: The Department proposes that the change will become effective as of January 1, 1981.

ADDRESS: Send comments to Elliott B. Light, Department of State, Office of Citizenship Appeals and Legal Assistance (PPT/C), 2201 C Street, N.W., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, (202) 632–0801/0896.

SUPPLEMENTARY INFORMATION: The practice of permitting the inclusion of a child in the passport of his/her parent or sibling was at one time viewed as desirable from both an economic and convenience standpoint. The use of the family-type passport has been declining in popularity. A thirty-day analysis of passport applications filed within the United States during the busy travel month of May 1979 indicated that only two and two tenths per cent (2.2%) of all passports issued included a child or children under the age of thirteen years.

This decline reflects increased recognition by the traveling American public of the difficulties they may encounter in using these passports. An included person may not use the passport for travel unless accompanied by the actual bearer. This has proven to be a problem where an emergency forces an included person to travel internationally without the bearer. Such emergency travel may be delayed because of problems associated with the lack of an individual passport. Foreign governments may question the bearer's use of the passport when unaccompanied by those persons included in the passport. A related problem exists in the case of a bearer who is forced to return immediately to the United States while leaving included persons overseas undocumented as American citizens. Foreign governments also have complained in the past that such passports do not contain adequate identifying data on those persons who are included. Finally, amending passports either to include or exclude persons subsequent to issuance is costly and time consuming, not only for the Department of State, but also for the traveling American public.

In addition, the amendment is required by the new Travel Document Issuing System (TDIS) which was designed on the concept of "one person—one passport".

Accordingly, it is proposed to make the following changes to Part 51 of Title 22 Code of Federal Regulations:

1. Revise § 51.2 to read as follows:

§ 51.2 Passports issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department, no person shall bear more than one valid or potentially valid U.S. passport at any one time.

§ 51.5 [Deleted]

2. Delete § 51.5.

§ 51.21 [Amended]

3. Delete the current § 51.21(c)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(c)(1), and renumber the current § 51.21(c)(3) as § 51.21(c)(2).

4. Delete the current § 51.21(d)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(d)(1), and renumber the current § 51.21(d)(3) as § 51.21(d)(2).

5. Delete the current § 51.21(e) and renumber the current § 51.21(f) as § 51.21(e).

§ 51.22 [Deleted]

6. Delete § 51.22.

7. Revise § 51.23 to be entitled, "Name of applicant to be used in passport" and to read as follows:

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

§ 51.25 [Amended]

8. Delete the final sentence of § 51.25(a).

9. Delete the current § 51.25(b) and renumber the current § 51.25(c) as § 51.25(b). Renumber the current § 51.25(d) as Section 51.25(c).

§ 51.28 [Amended]

10. Delete the words "or any person to be included" from Section 51.28(a).

11. Revise § 51.32 to read as follows:

§ 51.32 Amendment of passports.

Applications for amendment of a passport shall be made on forms prescribed by the Department.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Robert E. Fritts,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 80-36762 Filed 11-24-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 204

[Docket No. R-80-874]

Coinsurance

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: Part 204 has been amended to permit under coinsurance non-occupant owner transactions, Section 234(c) condominium loans, and also Section 235 interest subsidy loans. Section 204.2 amends the mortgagee approval procedure and § 204.3 permits lender to use Veterans' Administration appraisals under coinsurance. Section 204.3(a)(1) has been deleted in order to permit coinsurance of mortgages for resale of recently acquired properties. Section 204.256, which prohibited reinsurance, has been deleted. Section 204.260 now permits the lender to retain its portion of the mortgage insurance premium when collected rather than at the end of the coinsurance period. In addition, for all coinsured loans originated after the date of these regulations, the mortgagee will retain 10 percent of the mortgage insurance premiums payable to the Commissioner during the five year period of coinsurance. Section 204.270 has been eliminated consistent with § 204.260; that is, HUD will no longer maintain a coinsurance reserve. Claims will be paid on the basis of HUD's 90 percent exposure. Section 204.321 has been amended to reflect a revised stop loss procedure.

DATE: Comments Due: January 26, 1981.

ADDRESS: Written comments should refer to the above docket number and date and should be submitted to the Rules Docket Clerk, Office of General Counsel, Room, 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All comments received will be available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address. All comments received will be considered before adoption of a final rule.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 9270, Washington, D.C. 20410, Telephone: (202) 755–6720 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD's single family coinsurance program offers lenders an opportunity to assume HUD–FHA underwriting functions, and receive a share of the mortgage insurance premium. The lender must accept a loss exposure of 10 percent on each loan originated under coinsurance, subject to a stop loss provision. HUD has expanded the coinsurance program to include non-occupant owners, condominium financing and Section 235. The original design of the program met the needs of unsupervised lenders and required lenders participating to be approved mortgages with a net worth of $250,000 as determined by the Commissioner. The regulations required approved lenders to submit current audited financial statements as part of the approval procedure. The Department finds that this procedure inhibits participation by attempts to qualify supervised lenders, particularly Federally-insured savings and loan associations, which together with other insured depository institutions, account for three quarters of all home mortgage lending. These supervised lenders are already subject to examination by regulatory agencies. Therefore, the regulations have been amended to require financial statements from non-supervised lenders and annual audits only as required under Part 203 of the regulations.

Presently, the program prohibits lenders from converting an appraisal issued by the Veterans' Administration to coinsurance. The proposed rule authorizes such a conversion.

At the time the single family coinsurance program was originally implemented, consideration had been given to allowing lenders to obtain reinsurance from private sources on their exposure under coinsurance. However, in view of concerns that lenders would not underwrite conscientiously, a provision was added to prohibit reinsurance. After several years of experience with the program, HUD does not believe it is necessary to retain this provision of the regulations. The prohibition has been deleted. We assume lenders will reinsure and that private mortgage insurers will impose underwriting requirements; this will provide the secondary market with an additional degree of protection not available under the original program. This change should encourage more lenders to participate without sacrificing the quality of underwriting under coinsurance. The requirement for lender

disposition of the property, in the event of foreclosure, continues.

The changes in the reinsurance provision allow the Department an opportune time to revise the regulations concerning the collection and distribution of the mortgage insurance premium and the stop loss provision. Presently, the Department collects from the lender the full amount of the MIP and credits the lender's account with the proper amounts. Claims made by the lender are then paid by HUD in the amount of 100 percent which is accomplished by debiting the lender's MIP account for 10 percent of the loss and HUD's account for the remaining 90 percent. Presently, HUD maintains each lender's coinsurance account on a calendar year basis for five years (the coinsurance period). Balances are remitted to the lender at the termination of the coinsurance period. Lenders using accrual accounting methods are required to pay taxes on the MIP income in the year it is credited to their account even though the disbursement is made at the end of the coinsurance term. These new regulations permit lenders to retain their portion of the MIP at the time collected. Remitting to HUD only the HUD share of the MIP. In this manner, lenders will participate in the MIP earnings at the time of collection, offsetting some of the liability imposed by previous regulations. In addition, HUD will no longer be required to maintain coinsurance accounts for lenders and HUD will only reimburse the lender for 90 percent of the loss subject to a revised stop loss provision.

Presently the aggregate amount for which a mortgagee will be responsible with respect to mortgages coinsured in any one year is limited to one percent of the mortgagee's coinsurance portfolio for that calendar year. The Department considered eliminating the stop loss provision or revising the provision to permit a mortgagee to invoke a stop loss in the case of catastrophic economic conditions. In lieu of either position, the Department proposes a new stop loss provision which will be applied to approved coinsuring lenders.

If the stop loss provision is invoked, the lender will be dropped from the coinsurnce program for at least two years unless the losses were caused by economic conditions beyond the control of the mortgagee.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, the Department proposes to amend CFR Part 204 of Chapter II as follows:

1. The text of § 204.1 is redesignated paragraph (a) of § 204.1; the exception of § 203.18(c) is deleted from the redesignated paragraph (a); a new excepted provision § 203.43(e) is added to the redesignated paragraph (a); and new paragraphs (b) and (c) are added as follows:

§ 204.1 Incorporation by reference.

(a) * * *

§ 203.18 (d), (e) and (f) Maximum mortgage amounts.

* * * * *

§ 203.43(e) Eligibility of mortgages covering houses in Federally-impacted areas.

* * * * *

(b) All of the provisions of Subpart A, Part 234 of this chapter concerning eligibility requirements of mortgages under Section 234(c) of the National Housing Act apply to mortgages covering individually-owned units in a condominium project to be insured under Section 234(c) pursuant to the coinsurance authority of Section 244 of the National Housing Act except the following provisions:

Section 234.68 Eligibility of mortgages covering housing in certain neighborhoods.
Section 234.69 Eligibility of mortgages covering housing in Federally-impacted areas.
Section 234.70 Eligibility of open-end advances.

(c) All of the provisions of Subparts A and C, Part 235 of this chapter concerning eligibility requirements of mortgages and assistance payments to be insured under Section 235 pursuant to the coinsurance authority of Section 244 of the National Housing Act except the following provisions:

Section 235.38 Reservations of contract authority.
Section 235.39 Local government comment period.
Section 235.325 Qualified cooperative members.
Section 235.330 Cooperative unit eligible for assistance payments.

§ 204.2 [Amended]

2. Paragraph (a) of § 204.2 is amended by revising subparagraph (1) and revoking and reserving subparagraphs (4) and (5) as follows:

(a) * * *

(1) It shall submit evidence satisfactory to the Commissioner that it has sound capital funds (net worth) of a value of not less than $250,000.

(2) * * *

(3) * * *

(4) [Reserved]

(5) [Reserved]

(6) * * *

* * * * * *

3. In § 204.3, paragraph (a) is amended to revoke and reserve subparagraph (1), paragraph (b) is revised to read, and a new paragraph (c) is added, as follows:

§ 204.3 Authority to determine eligibility.

(a) * * *

(1) [Reserved]

* * * * * *

(b) In making the determinations set forth in this section, the mortgagee shall utilize only staff or fee appraisers, mortgage credit examiners, and inspectors approved by the Commissioner, except that a mortgagee may utilize a Certificate of Reasonable Value issued by the Administrator of Veterans Affairs which has not expired.

(c) The mortgagee is authorized to make determinations relating to the qualifications of homeowners for assistance payments pursuant to instructions and standards issued by the Commissioner with respect to mortgages to be coinsured under Part 235 of this chapter.

4. In § 204.251 paragraph (o) is revised to read as follows:

§ 204.251 Definitions.

* * * * * *

(o) "Debentures" means registered, transferable securities which are valid and binding obligations, issued in the name of the Mutual Mortgage Insurance Fund in accordance with the provisions of this part; such debentures are the primary liability of the Mutual Mortgage Insurance Fund and are unconditionally guaranteed as to principal and interest by the United States; except that debentures issued in connection with mortgages insured under Section 234 or 235, pursuant to the coinsurance authority of Section 244, of the National Housing Act shall be issued in the name of, and shall be the primary liability of, the General Insurance Fund or the Special Risk Insurance Fund, respectively."

* * * * * *

§ 204.256 [Removed]

5. Section 204.256 is revoked.

6. The text of § 204.260 is redesignated as paragraph (a) of § 204.260 and a new paragraph (b) is added as follows.

§ 204.260 Method of payment of MIP.

(a) * * *

(b) With respect to mortgages insured on or after (Effective Date of Final Rule) the mortgagee may retain 10 percent of the MIP payable to the Commissioner during the period of coinsurance.

7. § 204.261 is revised to read as follows:

§ 204.261 Amount of initial MIP.

The initial MIP shall be in an amount equal to one-half percent (seven-tenths of one percent if the mortgage is insured under Part 235 of this chapter) of the average principal obligation for the first year of amortization under the mortgage, without taking into account delinquent payments or prepayments.

8. Section 204.265 is revised to read as follows:

§ 204.265 Amount of annual MIP.

After payment of the initial MIP, an annual MIP shall be paid in an amount equal to one-half percent (seven-tenths of one percent if the mortgage is insured under Part 235 of this chapter) of the average outstanding principal obligation for the 12-month period preceding the date on which the premium becomes payable, without taking into account delinquent payments or prepayments.

10. Section 204.270 is revised to read as follows:

§ 204.270 Annual coinsurance reserve.

(a) There shall be established by the Commissioner for each originating mortgagee, an Annual Coinsurance Reserve which shall consist of credits and debits relating to all mortgages insured with respect to such mortgagee under this part during each calendar year.

(b) An Annual Coinsurance Reserve shall not be established and the provisions of §§ 204.271 through 204.275; 204.284 (a)(2) and (a)(3); 204.330 shall not apply to mortgages insured on or after (Effective Date of Final Rule).

§ 204.300 [Amended]

11. Section 204.300 is corrected by changing the reference in paragraph (a) from § 203.301 to § 204.301.

12. In § 204.321 paragraphs (d) and (e) are revised to read as follows:

§ 204.321 Amount of payment.

* * * * *

(d) With respect to mortgages insured before (Effective Date of Final Rule):

(1) The Commissioner will pay the originating mortgagee 100 percent of the amount computed pursuant to paragraph (a) of this section and will debit to the Annual Coinsurance Reserve any payment in excess of the amount of insurance benefits, provided the credit balance in the Annual Coinsurance Reserve is equal to, or more than, the amount of the mortgagee's responsibility under paragraph (c) of this section.

(2) The aggregate amount for which a mortgagee will be responsible with respect to mortgages coinsured in any calendar year shall not exceed one percent of the total of the original principal amount of all mortgages coinsured by the mortgagee in such calendar year (excluding mortgages for which the coinsurance liability has been transferred), plus the total of the original principal amounts of all additional mortgages originated during such calendar year for which such mortgagee has assumed coinsurance liability. In the event an application for insurance benefits is accepted by the Commissioner which would cause the mortgagee's responsibility to exceed such limitation, the amount of insurance benefits shall be 100 percent of the amount computed pursuant to paragraph (a) of this section.

(e) With respect to mortgages insured on or after (Effective Date of Final Rule), the Commissioner, will, on application of an approved coinsuring mortgagee, pay 100 percent of the amount computed pursuant to paragraph (a) of this section for any mortgage held by the mortgagee at the time of application if the aggregate amount of losses incurred by the mortgagee pursuant to this section during the coinsuring period ending on the date of application exceeds one percent of the aggregate orginal principal amount of such mortgages held by the mortgagee at the time of application. On such application, the mortgagee's approval as a coinsuring mortgagee will be withdrawn but the mortgagee may apply for reinstatement on termination of the stop loss limitation authorized by this section but not before two years after the date of withdrawal, unless the Commissioner determines that the losses were caused by economic conditions beyond the control of the mortgagee.

(Section 211 National Housing Act, (12 U.S.C. 1701, et seq.))

Issued at Washington, D.C. on September 19, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-36651 Filed 11-24-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 242

[Docket No. R-80-875]

Mortgage Insurance for Hospitals; Eligibility Requirements for Refinancing of Existing Debts

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Part 242 as required by Section 326 of the Housing and Community Development Amendments of 1978 to allow for the refinancing of existing debts of hospitals.

DATE: Comments due: January 26, 1981.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments submitted will be available at this address for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: C. Edward Lewis, Jr., Chief, Health Facilities Branch, Elderly, Cooperative, and Health Facilities Division, Room 6126, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202) 426-7191 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 326 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, amends Section 223(f) of the National Housing Act to allow the refinancing of existing debt of an existing hospital. Hospitals will be insured under Part 242 pursuant to the authority in Section 223(f). Appropriate review procedures as required by Pub. L. 95-557(D) and Section 1523(a)(6) of the Public Health Service Act are a responsibility of and will be determined by the Department of Health and Human Services.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for inspection during the regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, the Department proposes to amend Part 242 as follows:

1. The Table of Contents would be amended to include a new section numbered 242.96; and designated,

Eligibility of mortgages on existing hospitals.

2. The following new section would be added and designated as § 242.96 to read as follows:

§ 242.96 Eligibility of mortgages on existing hospitals.

Notwithstanding the generally applicable requirement that mortgages insured under this Subpart be limited to hospitals to be constructed or substantially rehabilitated after commitment for mortgage insurance, a mortgage executed in connection with the refinancing of an existing hospital may be insured under this subpart pursuant to Section 223(f) of the Act. A mortgage insured pursuant to this section shall meet all other requirements of this subpart except as modified by this section and shall be limited as to amount, terms, and conditions for insurance as follows:

(a) *Application, commitment, inspection and required fees*—(1) *Applications.* An application for a conditional or firm commitment for insurance of a mortgage on an existing project shall be submitted by the sponsor and an approved mortgagee. Such application shall be submitted to the local HUD office on an FHA approved form. No application shall be considered unless accompanied by the exhibits listed on the application form. An application may, at the option of the applicant, be submitted for a firm commitment omitting the conditional commitment stage.

(2) *Application fee-conditional commitment.* An application-commitment fee of $2 per thousand dollars of the requested mortgage amount shall accompany an application for conditional commitment.

(3) *Application fee-firm commitment.* An application for firm commitment shall be accompanied by an application-commitment fee of $3 per thousand dollars of the requested mortgage amount to be insured, less the amount of any fee previously received for an outstanding conditional commitment.

(4) *Inspection fee.* No inspection fee will be required.

(b) *Maximum mortgage.* The maximum mortgage amount for refinancing shall not exceed the lesser of:

(1) 80 percent of the Commissioner's estimated replacement cost of the project, or

(2) The cost to refinance the existing real estate indebtedness which will consist only of the following items, the eligibility and amounts of which must be determined by the Commissioner:

(i) The amount required to pay off the existing indebtedness,

(ii) An amount for the initial deposit for the Reserve Fund for Replacements,

(iii) Reasonable and customary legal, title and recording expenses, and fees charged by the mortgagee, and

(iv) Architect's inspection, municipal inspection, state inspection, and/or engineering fees,

(v) Reasonable discounts charged by the mortgagee.

(c) *Maturity.* Notwithstanding § 242.35 the term of the mortgage shall not be less than 10 years, nor shall it exceed the lesser of 20 years or 75 percent of the estimated remaining economic life of the physical improvements. The term of the mortgage shall begin on the first day of the second month following the date of initial/final endorsement of the mortgage for insurance.

(d) *Eligibility property.* A mortgage given to refinance an existing attained sustaining occupancy (occupancy that would produce income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements), as determined by the Commissioner, prior to endorsement of the mortgage for insurance, or the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the Commissioner. In addition to the other requirements in this section, projects must also meet the following requirements:

(1) Prior to the time of filing an application for mortgage insurance, the project shall have been substantially completed and at least three years must elapsed from the date of completion, or initial occupancy, as determined by the Commissioner, whichever is later;

(2) The refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital, and only to the extent necessary to assure the continued economic viability of the project; and

(3) The hospital has received such certifications from a State agency designated in accordance with Section 604(a)(1) or Section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under this Part and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to Section 1523(a)(6) of the Public Health Act. The above certifications must be acceptable to the Secretary of HHS.

(e) *Labor standards and prevailing wage requirements.* The requirements of §§ 242.63, 242.65, 242.67, 242.69 and 242.71 shall not be applicable to mortgages insured pursuant to a commitment issued in accordance with this section.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., on September 19, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-36655 Filed 11-24-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[LR-190-77]

Treatment, for Tax Purposes, of Expenditures for Attempts To Influence Legislation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment, for tax purposes, of expenditures for attempts to influence legislation. There is a need for amendments to those regulations and especially for clearer guidelines for determining whether a communication constitutes an attempt to influence the public with respect to legislation. The proposed regulations set forth a three-factor test for making this determination, amend certain related rules, and provide for reporting by organizations making expenditures for purposes of influencing the public with respect to legislation. The proposed regulations will affect taxpayers and private foundations making expenditures of this kind directly or indirectly and the organizations through which taxpayers make the expenditures.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 26, 1981. The amendments generally are proposed to be effective for taxable years beginning after 1953 except that the new rules with respect to deductibility of dues, etc., and the reporting requirement for certain organizations are proposed to apply to expenditures made after 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of

Internal Revenue, Attention: CC:LR:T (LR–190–77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paul A. Francis of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297].

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 162, 6001, and 6033 of the Internal Revenue Code of 1954 and to the Regulations on Foundation Excise Taxes (26 CFR Part 53) under section 4945 of the Code. These amendments are proposed to provide clearer guidelines for determining whether a communication constitutes an attempt to influence the public with respect to legislation and to deal with certain related matters. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Existing Rules With Respect to Business Taxpayers

Prior to 1962 the Income Tax Regulations under Code section 162 prohibited the deduction of expenditures for lobbying purposes. The prohibition applied both to expenditures for contacts with legislators and to expenditures for efforts to influence the general public with respect to legislation. Section 162 (e), added to the Code in 1962, expressly permitted deduction of expenditures for contacts with legislators in certain circumstances but left standing the prohibition on deduction of expenditures to influence public opinion on legislation.

Three-factor Test

The proposed regulations establish a three-factor test for determining whether a communication constitutes an attempt to influence the public with respect to legislation. A communication will be treated as an attempt of that sort only if it—

(1) Pertains to action by a legislative body;

(2) Reflects a view on that legislative action, whether explicitly or implicitly; and

(3) Is distributed in a manner so as to reach individuals as voters or constituents.

The proposed regulations provide definitions and examples to clarify the scope and application of this test.

Special Rule for Advertisements

Under the proposed regulations, no portion of an expenditure for an advertisement is deductible if any part of the advertisement constitutes an attempt to influence the general public with respect to legislation. This rule is consistent with the holding with respect to newspaper advertisements in *Consumers Power Co. v. United States*, 299 F. Supp. 1180, 1183 f. (E.D. Mich. 1969), *rev'd on other grounds*, 427 F. 2d 78 (6th Cir. 1970), *cert. denied*, 400 U.S. 925 (1970).

Certain Dues or Contributions

The proposed regulations also provide rules with respect to amounts paid to organizations that engage in political activities (including lobbying) within the scope of section 162 (e)(2).

The existing regulations limit deductions for dues or other amounts paid to these organizations if the political activities of the organizations constitute a substantial part of their overall activities. The limitation does not apply if the political activities do not constitute a substantial part of the activities of an organization. Thus, the existing regulations allow taxpayers to deduct indirect expenditures for political activities in certain circumstances. The allowance of these deductions seems inconsistent with the disallowance of deductions for all direct expenditures for the same activities. Consequently, the proposed regulations limit deductions for dues or other payments if the recipient organization engages in any activities within the scope of section 162(e)(2), whether or not those activities constitute a substantial part of the organization's overall activities.

The proposed regulations also require organizations that receive dues or other payments for which the members or contributors may claim business deductions under section 162 to inform their members or contributors what percentage of their expenditures during a calendar year were expenditures for political activities. This information should assist taxpayers in determining what portion of their dues or contributions may be deductible. The proposed regulations provide certain exceptions to this requirement, which is to be effective for calandar years after 1980.

Rules With Respect to Private Foundations

The Tax Reform Act of 1969 added to the Code new section 4945 which imposes taxes on expenditures by private foundations for certain purposes. The committee reports indicate that the provisions in section 4945 that relate to attempts by private foundations to influence the public with respect to legislation were intended to be "substantially similar" to the rules applied to business taxpayers under section 162(e)(2). H.R. Rep. 91–413, 91st Cong., 1st Sess. 33 (1969); S. Rep. 91–552, 91st Cong., 1st Sess. 48 (1969).

The proposed regulations accordingly conform the general rules for private foundations with respect to attempts to influence the public to the rules proposed for business taxpayers. Thus, the three-factor test and the special rule for advertisements also apply to private foundations. Examples similar to those relating to business taxpayers illustrate the operation of the rules.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1 and 53 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.162–20 is amended by revising paragraphs (a), (b), and (c) (1), (3), and (4) to read as follows:

§ 1.162–20 Expenditures attributable to lobbying, political campaigns, attempts to influence legislation, etc., and certain advertising.

(a) *In general*—(1) *Scope of section.* This section contains rules governing the deductibility or nondeductibility of expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes (including the support of or opposition to any candidate for public office) or for carrying on propaganda (including advertising) related to any of the foregoing purposes. This section also deals with expenditures for institutional or "good will" advertising.

(2) *Institutional or "good will" advertising.* Expenditures for institutional or "good will" advertising which keeps the taxpayer's name before the public are generally deductible as ordinary and necessary business expenses provided the expenditures are related to the patronage the taxpayer reasonably expects in the future. For example, a deduction will ordinarily be allowed for the cost of advertising which keeps the taxpayer's name before the public in connection with encouraging contributions to such organizations as the Red Cross, the purchase of United States Savings Bonds, or participation in similar causes. In like fashion, expenditures for advertising which presents views on economic, financial social, or other such issues, but which does not attempt to influence the public with respect to legislative matters (see paragraph (c)(4) of this section) or involved any of the other activities specified in paragraph (c) of this section for which a deduction is not allowable, are deductible if they otherwise meet the requirements of the regulations under section 162.

(b) *Taxable years beginning before January 1, 1963.* For rules with respect to taxable years beginning before January 1, 1963, see 26 CFR 1.162–20(b) (Rev. as of April 1, 1980).

(c) *Taxable years beginning after December 31, 1962.*—(1) *In general.* For taxable years beginning after December 31, 1962, certain types of expenses incurred with respect to legislative matters are deductible under section 162(a) if they otherwise meet the requirements of the regulations under section 162. These deductible expenses are described in subparagraph (2) of this paragraph. All other expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes (including the support of or opposition to any candidate for public office), or for carrying on propaganda (including advertising) relating to any of the foregoing purposes (see subparagraph (4) of this paragraph) are not deductible from gross income for such taxable years. For the disallowance of deductions for bad debts and worthless securities of a political party, see § 1.271–1. For the disallowance of deductions for certain indirect political contributions, such as the cost of certain advertising and the cost of admission to certain dinners, programs, and inaugural events, see § 1.276–1.

* * * * *

(3) *Deductibility of dues and other payments to an organization.* If part of the activities of an organization, such as a labor union or a trade association, consists of one or more of the activities to which this paragraph relates (legislative matters, political campaigns, etc.) exclusive of any activity constituting an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization (see subparagraph (2)(ii)(*b*)(*1*) of this paragraph), a deduction will be allowed only for such portion of the dues or other payments to the organization as the taxpayer can clearly establish is attributable to activities to which this paragraph does not relate and to any activity constituting an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization. In no event shall a deduction be allowed for that portion of a special assessment or similar payment (including an increase in dues) made to any organization for any activity to which this paragraph relates if the activity does not constitute an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization. If an organization pays or incurs expenses allocable to legislative activities which meet the tests of subdivisions (i) and (ii) of subparagraph (2) of this paragraph (appearances or communications with respect to legislation or proposed legislation of direct interest to the organization) on behalf of its members, the dues paid by a taxpayer are deductible to the extent used for such activities. Dues paid by a taxpayer will be considered to be used for such an activity, and thus deductible, although the legislation or proposed legislation involved is not of direct interest to the taxpayer, if, pursuant to the provisions of subparagraph (2)(ii)(*b*)(*1*) of this paragraph, the legislation or proposed legislation is of direct interest to the organization, as such, or is of direct interest to one or more members of the organization. For other provisions relating to the deductibility of dues and other payments to an organization, such as a labor union or trade association, see paragraph (c) of § 1.162–15. For requirement that an organization furnish to members and contributors a statement about expenditures, see § 1.6033–2(k). This subparagraph applies to expenditures made after 1980. For corresponding rules for expenditures made before 1981, see 26 CFR 1.162–20(c)(3) (Rev. as of April 1, 1980).

(4) *Limitations with respect to legislative matters*—(i) *In general.* No deduction shall be allowed under section 162(a) for any amount paid or incurred (whether by way of contribution, gift, or otherwise) in connection with any attempt (including what is commonly referred to as a grassroots campaign) to influence the general public, or any segment thereof, with respect to legislative matters. A communication shall be considered an attempt to influence the general public, or a segment thereof, with respect to legislative matters if, and only if, the communication satisfies all of the following three tests:

(A) It pertains to legislation being considered by, or likely in the immediate future to be proposed to, a legislative body, or seeks or opposes legislation;

(B) It reflects a view with respect to the desirability of legislation (for this purpose, a communication that pertains to legislation but expresses no explicit view on the legislation shall be deemed to reflect a view on legislation if the communication is selectively disseminated to persons likely to share a common view of the legislation); and

(C) It is communicated in a form and distributed in a manner so as to reach individuals as members of the general public, that is, as voters or constituents, as opposed to a communication designed for academic, scientific, or similar purposes. A communication may meet this test even if it reaches the public only indirectly as in a news release submitted to the media.

No portion of an expenditure in connection with an advertisement is deductible if any part of the advertisement constitutes an attempt to influence the general public with respect to legislative matters.

(ii) *Definitions.* For purposes of this subparagraph—

(A) The term "legislation" includes action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. The term "legislation" includes a proposed

treaty required to be submitted by the President to the Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty.

(B) The term "action" includes the introduction, amendment, enactment, defeat, or repeal of Acts, bills resolutions, or similar items.

(C) The term "legislative body" does not include executive, judicial, or administrative bodies.

(D) The term "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive.

(iii) *Examples.* The provisions of this subparagraph relating to attempts to influence the public with respect to legislative matters may be illustrated by the following examples:

Example (1). Several major businesses in State W place in local newspapers an advertisement asserting that lack of new capital is hurting the state's economy. The advertisement recommends that residents either invest more in local businesses or increase their savings so that funds will be available to others interested in making investments. Although the advertisement expresses a view with respect to a general problem that might receive legislative attention and is distributed in a manner so as to reach many individuals, it does not constitute an attempt to influence the public with respect to legislative matters because it pertains to private conduct rather than legislation.

Example (2). Assume the same facts as in example (1), except that the advertisement, although not expressly calling for legislative action, also asserts that particular kinds of state tax incentives (which could not be implemented without legislation) would substantially increase capital formation. Thus, the advertisement is seeking action by the legislature and, at least in part, is addressed to individuals as voters or constituents rather than as potential investors. The advertisement reflects a view with respect to the desirability of the legislation. The advertisement constitutes an attempt to influence the public with respect to a legislative matter, and no portion of any expenditures in connection with the advertisement may be deducted.

Example (3). There is pending in the legislature of State X a proposal to amend certain laws concerning voting in state elections. As a public service, M, a manufacturer in State X, places in local newspapers an advertisement that explains both the current voting laws and the proposed amendments. The advertisement takes no position on the merits of the proposal. Under these circumstances, the advertisement does not reflect a view with respect to the desirability of the proposal and does not constitute an attempt to influence the general public with respect to the proposal.

Example (4). The legislature of State Y is considering a proposal to prohibit hunting on land owned by the state. Hunters in State Y are generally opposed to the measure. N, a manufacturer of hunting equipment, prepares a pamphlet that outlines the proposal and its effects but expresses no view on its merits. N arranges for distribution of the pamphlet to customer of stores in State Y that specialize in hunting equipment. The pamphlet pertains to legislation and is deemed to reflect a view with respect to the desirability of the legislation by reason of its selective distribution to an audience likely to oppose the prohibition on hunting. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. Expenditures in connection with the preparation and distribution of the pamphlet are nondeductible.

Example (5). The legislature in State Z is considering a proposal to require pharmaceutical firms to test the safety of their products through certain laboratory procedures. P, a pharmaceutical firm in State Z, prepares a detailed report on the usefulness of the tests that would be required under the proposal. The report concludes that the tests specified in the proposal are poorly designed. P distributes copies of the report to university professors in the field of health science without suggesting that the recipients make any attempt to influence the public with respect to the proposal. Although the report pertains to legislation and implies that the legislative proposal under consideration should not be enacted, the form of the report and its limited distribution indicate that copies were furnished to the recipients as scholars in the field rather than as members of the general public, that is, as voters or constituents. The expenditures for the report, therefore, are not expenditures in connection with an attempt to influence the public with respect to the proposal.

Example (6). Assume the same facts as in example (5) except that instead of distributing copies of the report to university professors, P distributes to various civic groups leaflets summarizing the conclusions and recommendations of the report. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. Expenditures in connection with the report and the leaflet are nondeductible.

Example (7). Corporation Q pays for the radio broadcast of an advertisement that refers to a current controversy and urges citizens to "become involved". The advertisement does not discuss the merits of any legislative proposal, but it does offer a free booklet which analyzes and takes positions on various legislative proposals relating to the controversy. Expenditures in connection with the advertisment and the booklet are nondeductible because together they constitute an attempt by Q to influence the public with respect to this legislative matter.

Example (8). Corporation R makes the services of B, one of its executives, available to S, a trade association of which R is a member. B works for several weeks to assist S to develop materials designed to influence opinion on legislation. In performing this work, B uses office space and clerical assistance provided by R. R pays full salary and benefits to B during this period and receives no reimbursement from S for these payments or for the other facilities and assistance provided. All expenditures of R, including the allocable office expenses, that are attributable to this assignment are nondeductible because B was engaged in an attempt to influence the public on legislative matters.

Par. 2. Paragraph (c) of § 1.6001–1 is amended to read as follows:

§ 1.6001–1 Records.

* * * * *

(c) *Exempt organizations.* In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, reciepts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033 or the regulations thereunder.

* * * * *

Par. 3. Section 1.6033–2 is amended by revising paragraph (k), by redisignating revised paragraph (k) as paragraph (*l*), and adding a new paragraph (k). These revised, redesignated, and added provisions read as follows:

§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

* * * * *

(k) *Statements about certain expenditures.* For years after 1980, every organization which is described in section 501(c) (5) or (6) and any other organization exempt under section 501(a) whose members or contributors may deduct dues or contributions as business expenses under section 162 shall furnish to its members and contributors a statement showing what percentage of its total expenditures during the calendar year were lobbying or political expenditures of a type for which § 1.162–20 denies deductions to taxpayers. The statement required by the preceding sentence shall be furnished on or before January 31 of the following calendar year. This paragraph shall not apply to an organization for any year during which the organization makes no lobbying or political expenditures of a type for which § 1.162–20 denies deductions to

taxpayers. Furthermore, an organization is not required under this paragraph to furnish any statement to a member or contributor for any year if the portion of that person's payments to the organization for that year which is allocable to the type of expenditures for which § 1.162–20 denies deductions is

(1) Less than $25, or

(2) Less than $50 and less than 5 percent of the total payments made by that person to the organization for the year.

[I] *Effective date.* The provisions of this section, other than paragraph (k), shall apply with respect to returns filed for taxable years beginning after December 31, 1969.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 4. Section 53.4945–2 is amended by revising paragraphs (a) (1) and (2), (b), and (c) to read as follows:

§ 53.4945–2 Propaganda influencing legislation.

(a) *Propaganda influencing legislation, etc.*—(1) *In general.* Under section 4945(d)(1) the term "taxable expenditure" includes any amount paid or incurred by a private foundation to carry on propaganda or otherwise to attempt to influence legislation. Attempts to influence legislation may include communications with a member or employee of a legislative body or with an official of the executive department of a government or efforts to affect the opinion of the general public with respect to any legislation. See, however, paragraph (d) of this section for exceptions to the general rule.

(2) *Definitions.* For purposes of this section—

(i) The term "legislation" includes action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. The term "legislation" includes a proposed treaty required to be submitted by the President to the Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty.

(ii) The term "action" includes the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

(iii) The term "legislative body" does not include executive, judicial, or administrative bodies.

Thus, for example, for purposes of section 4945, the term "any attempt to influence legislation" does not include attempts by a private foundation to persuade an executive body or department to form, support the formation of, expand or support the expansion of, or to acquire property to be used for the formation or expansion of, a public park or equivalent preserves (such as public recreation areas, game, or forest preserves, and soil demonstration areas) established or to be established by act of Congress, by executive action in accordance with an act of Congress, or by State, municipality or other governmental unit described in section 170(c)(1), as compared with attempts to persuade a legislative body, a member thereof, or other governmental official or employee, to promote the appropriation of funds for such an acquisition or other legislative authorization of such an acquisition. Therefore, a private foundation could under this subdivision, for example, propose to a park authority that it purchase a particular tract of land for a new park, even though such an attempt would necessarily require the park authority eventually to seek appropriations to support a new park. However, in such a case, the foundation could not provide the park authority with a proposed budget to be submitted to a legislative body, unless such submission could qualify under paragraph (d) of this section.

(iv) The term "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive.

* * * * *

(b) *Attempts to affect the opinion of the general public.*—(1) *In general.* Except as provided in paragraph (d)(1) (relating to the making available of nonpartisan analysis, study, or research) and (4) (relating to examination and discussion of broad social, economic, and similar problems) of this section, any expenditure paid or incurred by a private foundation in connection with an attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof is a taxable expenditure. A communication shall be considered an attempt to influence the general public, or a segment thereof, with respect to legislation if, and only if, the communication satisfies all of the following three tests:

(i) It pertains to legislation being considered by, or likely in the immediate future to be proposed to, a legislative body, or seeks or opposes legislation;

(ii) It reflects a view with respect to the desirability of the legislation (for this purpose, a communication shall be deemed to reflect a view on legislation if the communication is selectively disseminated to persons likely to share a common view of the legislation); and

(iii) It is communicated in a form and distributed in a manner so as to reach individuals as members of the general public, that is, as voters or constituents, as opposed to a communication designed for academic, scientific, or similar purposes. A communication may meet this test even if it reaches the public only indirectly as in a news release submitted to the media.

If any part of an advertisement constitutes an attempt to influence the general public with respect to legislation the entire amount expended for the advertisement is a taxable expenditure.

(2) *Examples.* The provisions of this paragraph relating to attempts to influence the general public with respect to legislation may be illustrated by the following examples:

Example (1). L, a private foundation dedicated to the study of economic issues, places in local newspapers in State W an advertisement that asserts that lack of new capital is hurting the state's economy. The advertisment recommends that residents either invest more in local businesses or increase their savings so that funds will be available to others interested in making investments. Although the advertisement expresses a view with respect to a general problem that might receive legislative attention and is distributed in a manner so as to reach many individuals, it does not constitute an attempt to influence the public with respect to legislation because it pertains to private conduct rather than legislation.

Example (2). Assume the same facts as in example (1), except that the advertisement, although not expressly calling for legislative action, also asserts that particular kinds of state tax incentives (which could not be implemented without legislation) would substantially increase capital formation. Thus, the advertisement is seeking action by the legislature and, at least in part, is addressed to individuals as voters or constitutents rather than as potential investors. The advertisement reflects a view with respect to the desirability of the legislation. The advertisement constitutes an attempt to influence the public with respect to legislation, and the entire amount expended in connection with the advertisement is a taxable expenditure.

Example (3). There is pending in the legislature of State X a proposal to amend certain laws concerning voting in state elections. As a public service, M, a private foundation in State X, places in local newspapers an advertisement that explains both the current voting laws and the proposed amendments. The advertisement takes no position on the merits of the proposal. Under these circumstances, the advertisement does not reflect a view with

respect to the desirability of the proposal and does not constitute an attempt to influence the general public with respect to the proposal.

Example (4). The legislature of State Y is considering a proposal to prohibit hunting on land owned by the state. N, a private foundation, prepares a pamphlet that analyzes the proposal in detail but expresses no view on its merits. N arranges for distribution of the pamphlet to groups in State Y opposed to hunting. The pamphlet is a communication that pertains to legislation and is deemed to reflect a view with respect to the desirability of the legislation by reason of its selective distribution to an audience likely to support the prohibition on hunting. The information is communicated in a form and distrubuted in a manner so as to reach individuals as voters or constitutents. Expenditures in connection with the preparation and distribution of the pamphlet are taxable expenditures.

Example (5). The legislature in State Z is considering a proposal to require pharmaceutical firms to test the safety of their products through certain laboratory procedures. P, a private foundation in State Y, prepares a detailed report on the usefulness of the tests that would be required under the proposal. The report concludes that the tests specified in the proposal are poorly designed. P distributes copies of the report to university professors in the field of health science without suggesting that the recipients make any attempt to influence the public with respect to the proposal. Although the report pertains to legislation and implies that the legislative proposal under consideration should not be enacted, the limited distribution of the report indicates that copies were furnished to the recipients as scholars in the field rather than as members of the general public, that is, as voters or constituents. The expenditures for the report, therefore, are not expenditures in connection with an attempt to influence the public with respect to the proposal.

Example (6). Assume the same facts as in example (5) except that, instead of distributing copies of the report to university professors, P distributes to various civic groups leaflets summarizing the conclusions and recommendations of the report. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. All amounts expended in connection with the study and the leaflet are taxable expenditures.

Example (7). Q, a private foundation, pays for the radio broadcast of an advertisement that refers to a current controversy and urges citizens to "become involved." The advertisement does not discuss the merits of any legislative proposal but it does offer a free booklet which analyzes and takes positions on various legislative proposals relating to the controversy. Expenditures for the advertisement and the booklet are taxable expenditures because together they constitute an attempt by Q to influence the public with respect to legislation.

Example (8). R, a private foundation, makes the services of B, one of its executives, available to S, an organization described in section 501(c)(4) of the Code. B works for several weeks to assist S in developing materials designed to influence public opinion on legislation. In performing this work, B uses office space and clerical assistance provided by R. R pays full salary and benefits to B during this period and receives no reimbursement from S for these payments or for the other facilities and assistance provided. All expenditures of R, including allocable office expenses, that are attributable to this assignment are taxable expenditures because B was engaged in an attempt to influence the public on legislation.

(c) *Lobbying activites.* Except as provided in paragraph (d) of this section, any expenditure in connection with an attempt to influence legislation through communication with any member or employee of a legislative body, or with any Government official or employee who may particpate in the formulation of the legislation, is a taxable expenditure.

* * * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-36692 Filed 11-20-80; 1:33 p.m.]

BILLING CODE 4830-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

Patent Interference Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: The Patent and Trademark Office is proposing to amend five sections and to add one additional section to its rules of practice in patent cases. Each of these sections concerns patent interference proceedings. The purpose of this action is: (1) to clarify and more specifically define the matters which may be raised before the Board of Patent Interferences at final hearing; (2) to broaden the present requirements relating to printed briefs at final hearing; and (3) to specify the manner in which discovery may be used.

DATES: Written comments must be received on or before February 4, 1981.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ian A. Calvert, Chairman, Board of Patent Interferences, by telephone at (703) 557-3625, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The reasons for the proposed changes are set out in the following discussion, under three headings which correspond to the purposes stated in the "SUMMARY."

(1) *Matters raised at final hearing.*— The second sentence of present § 1.258(a) contains a lengthy statement concerning consideration of the patentability of a claim. This statement appears to be superfluous and has proven to be extremely confusing even to persons well versed in interference practice. Proposed § 1.258 eliminates this problem by concisely stating that at final hearing the Board of Patent Interferences will consider only priority of invention and matters ancillary thereto.

The other proposed changes in § 1.258 arose as a result of the decision on petition for rehearing in *Peska* v. *Satomura*, 602 F.2d 969, 202 USPQ 726 (CCPA 1979), in which the court noted that § 1.258(b) did not specify certain steps which the Patent and Trademark Office requires to have occurred in order for a motion under § 1.231(a)(4) to be considered at final hearing. In order to correct this deficiency, § 1.258(a) is proposed to be rewritten to specify how matters which are ancillary to priority must have been raised in order to entitle a party to raise them at final hearing. Under the proposed provisions, matters raised in § 1.231 motions which were dismissed as procedurally defective, for example, because they were filed belatedly, or did not comply with the first sentence of § 1.231(b), may not be raised before the Board of Patent Interferences. However, a matter raised in a motion which was dismissed solely because it was based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications (as provided in § 1.231(a)(1)), or because it would require the taking of testimony (*Cory* v. *Blakey*, 1905 C.D. 116 (Comr. Pats.)), may be raised at final hearing under proposed § 1.258(a)(1)(iii).

The language of proposed § 1.258(a)(2) is taken from present § 1.225(a).

Present paragraph (b) of § 1.258 has been eliminated as redundant, since the question of benefit of a prior application is ancillary to priority, and is therefore covered under paragraph (a). Paragraph (c) of § 1.258 remains unchanged.

In view of the proposed revision of § 1.258, § 1.225(a) is proposed to be considerably simplified by merely referring to § 1.258. The provision for requesting final hearing within 30 days

of the decision denying the motion has been dropped as superfluous, since the time for requesting final hearing, if appropriate, is always set by the patent interference examiner. A final sentence requiring a motion to take testimony is proposed to be added, in order to ensure that if a matter (ancillary to priority) raised in a § 1.231 motion is one which must be supported by evidence, the testimony or other evidence (e.g., under 37 CFR 1.282) necessary for consideration of the matter by the Board of Patent Interferences will be taken inter partes, in accordance with 37 CFR 1.271 et seq.

Minor changes are proposed in § 1.231(d) for the purpose of consistency with proposed § 1.258.

None of the proposed changes in §§ 1.225(a), 1.231(d) or 1.258 is intended to alter the existing practice, except for the last sentence of proposed § 1.225(a), which makes mandatory a step which good practice dictates should be taken under present procedure but often is not.

(2) *Printed briefs.*—Under present §§ 1.253 and 1.254, testimony and briefs for final hearing filed in interferences must, if printed, comply with the requirements of § 1.253(e), which have consistently been interpreted as requiring standard typographic printing. Since the Court of Customs and Patent Appeals accepts as "printed" briefs produced by other processes, it is considered that the Patent and Trademark Office should follow suit, in order to spare interference parties the present onerous cost of typographic printing. § 1.253(e) is therefore proposed to be amended to conform it more closely to Rule 5.8(a) of the Court of Customs and Patent Appeals. A sentence, based on Court of Customs and Patent Appeals Rule 5.8(e), is proposed to be added to § 1.254 in order to permit the Board of Patent Interferences to accept, in its discretion, a brief which may not literally comply with the rules, but is otherwise considered satisfactory.

(3) *Use of discovery.*—When § 1.287 was adopted in 1971, no particular provision was made in the rules for the introduction and use as evidence of items obtained through discovery. This has led to some disagreement and confusion on the subject. Compare, for example, the majority and concurring opinions in *Inoue* v. *Lobur,* 195 USPQ 256 (Bd. Pat. Int. 1976).

Proposed new § 1.288 is intended to remedy this situation. Paragraph (a) of the rule is analogous to § 1.282, and permits a party to an interference who has obtained, through discovery related to the interference, admissions in writing in response to written requests for admissions, or written answers to written interrogatories, to introduce the admissions or answers into evidence without taking testimony. The term "discovery" is intended to include discovery conducted voluntarily between the parties or in a court, as well as discovery under § 1.287.

Paragraph (b) of the proposed section specifies that other matter obtained by discovery must be introduced in the same manner as other evidence; for example, documents obtained by discovery must be introduced as indicated in *Clark* v. *Wilke,* 203 USPQ 1101 (Bd. Pat. Int. 1978), and testimony taken in an ancillary proceeding under the control of a U.S. District Court must be introduced in accordance with § 1.283 (Commissioner's Notice of May 2, 1972, 898 O.G. 1500).

Pursuant to 35 USC 6(a), as amended, the Commissioner of Patents and Trademarks proposed to amend Title 37 of the Code of Federal Regulations by amending the §§ 1.225, 1.231, 1.253, 1.254 and 1.258, and by adding a new § 1.288, as shown below. The Patent and Trademark Office has determined that these rule changes have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

It is proposed to amend 37 CFR, Chapter I, Subchapter A, Part 1, as follows:

1. By revising paragraph (a) of § 1.225 to read as follows:

§ 1.225 Failure of junior party to file statements or to overcome filing date of senior party.

(a) If a junior party to an interference fails to file a preliminary statement, or if his statement fails to overcome the effective filing date of another party, judgment on the record will be entered against that junior party unless:

(1) Under the provisions of § 1.258(a), he would be entitled to raise before the Board of Patent Interferences a matter which is ancillary to priority and which, if decided in his favor, would remove the basis for judgment on the record against him, and

(2) Within a time set by the patent interference examiner, not less than 30 days, he requests that final hearing be set to review such matter. If the matter was raised in a motion which was dismissed for one of the reasons specified in § 1.258(a)(1)(iii), the request for final hearing must be accompanied by a motion to take testimony under paragraph (b) of this section.

* * * * *

2. By amending paragraph (d) of §1.231 as follows (additions are indicated by arrows, deletions by brackets):

§ 1.231 Motions before the primary examiner.

* * * * *

(d) All proper motions as specified in paragraph (a) of this section, or of a similar character, will be transmitted to and considered by the primary examiner without oral argument, except that consideration of a motion to dissolve ►on a ground other than no interference in fact◄ will be deferred to final hearing before a Board of Patent Interferences where the motion [urges unpatentability of a count to one or more parties] ►raises a matter◄ which would be reviewable at final hearing under § 1.258(a) and such [unpatentability is urged] ►matter is raised◄ against a patentee or has been ruled upon by the Board of Appeals or by a court in ex parte proceedings. Also consideration of a motion to add or remove the names of one or more inventors may be deferred to final, hearing if such motion is filed after the times for taking testimony have been set. Request for reconsideration will not be entertained.

3. By revising paragraph (e) of § 1.253 to read as follows:

§ 1.253 Copies of the testimony.

* * * * *

(e) When the copies of the testimony are submitted in printed form, they may be produced by standard typographic printing or by any process capable of producing a clear black permanent image. All printed matter except on covers must appear in at least 11 point type on opaque, unglazed paper. Margins must be justified. Footnotes may not be printed in type smaller than 9 point. The page size shall be either 7⅝ by 10¼ inches (19.4 by 26 cm.) with type matter 4⅛ by 7⅛ inches (10.6 by 18.2 cm.), or 8½ by 11 inches (21.6 by 27.9 cm.) with type matter 6½ by 9½ inches (16.5 by 24.1 cm.). The testimony shall be bound to lie flat when open. Plastic and metal ring-type bindings are not acceptable. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no appeal be taken, the twenty-five copies will be returned to the party filing the testimony.

* * * * *

4. By adding the following sentence to § 1.254:

§ 1.254 Briefs at final hearing.

* * * The board may refuse to accept any brief which has been printed,

typewritten, or bound otherwise than in substantial conformity with this section.

5. By revising § 1.258 to read as follows:

§ 1.258 Matters considered in determining priority.

(a) In determining priority of invention, the Board of Patent Interferences will consider only priority of invention on the evidence submitted, and matters ancillary thereto. A party shall be entitled to raise a matter which is ancillary to priority only if:

(1) The matter was raised by the party in a motion under § 1.231(a), and:

(i) The motion was transmitted to and decided by the primary examiner; or

(ii) Consideration of the motion was deferred to final hearing; or

(iii) The motion was dismissed as being based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications, or as being based on a ground which would require the taking of testimony; or

(2) The matter was raised by the party in opposition to a motion under § 1.231(a) (2), (3), (4) or (5) which was granted over his opposition; or

(3) The party shows good reason why the matter was not raised as specified in paragraphs (a) (1) or (2) of this section.

(b) to prevent manifest injustice the Board of Patent Interferences may in its discretion consider a matter which is ancillary to priority even though it would not otherwise be entitled to consideration under paragraph (a) of this section.

(c) At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

6. By adding the following new section:

§ 1.288 Use of discovery.

(a) If a party intends to rely upon an admission or upon an answer to an interrogatory, obtained by discovery, the admission or answer may be introduced into evidence by filing, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such admission or answer is not in rebuttal), a copy of the admission and the request therefor and/or a copy of the interrogatory and its answer, together with a notice of reliance thereon.

(b) A party may not rely upon any other matter obtained by discovery unless it is introduced into evidence pursuant to §§ 1.271 to 1.286.

Dated: October 15, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: October 31, 1980.

Approved:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-36675 Filed 11-24-80; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EN-FRL 1676-7]

Alternate Method 1 to Reference Method 9 of Appendix A—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: Notice of hearing.

SUMMARY: EPA proposed Alternate Method 1—Determination of the Opacity of Emissions from Stationary Sources Remotely by Lidar (Laser Radar), to Reference Method 9 on July 1, 1980, 45 FR 44329. The comment period closed on September 25, 1980. Due to requests, EPA is conducting a hearing on the proposed alternate method.

DATE: The hearing will be conducted at 8:30 a.m. (local time) on December 17, 1980.

ADDRESS: The hearing will be held in Room 269, Main Post Office Building, 18th and Stout Streets, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Arthur W. Dybdahl, 303/234-4658.

Dated: November 17, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-36647 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 60

[AD-FRL-1546-2]

Standards of Performance for New Stationary Sources; Perchloroethylene Dry Cleaners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed perchloroethylene (perc) dry cleaners. The standards would require the installation of carbon adsorbers or equivalent control devices on affected perc dryers and dry-to-dry machines and would require good operating and maintenance procedures on all affected dry cleaning equipment.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that perc dry cleaners contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed perc dry cleaners to use the best demonstrated system of continuous emission reduction, considering costs and nonair-quality health, environmental, and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before January 26, 1981.

Public Hearing. A public hearing will be held on January 8, 1981 (about 30 days after proposal) beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 2, 1981.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-30, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at Env. Research Ctr. Auditorium RTP, NC 27711. Persons wishing to present oral testimony should notify Ms. Deanna Tilley, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Perchloroethylene Dry Cleaners—Background Information for Proposed Standards, EPA-450/3-79-029a.*

Docket. Docket No. A-79-30, containing supporting information used by EPA in developing the proposed

standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. John Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5421.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit emissions of VOC from the two segments of the perchloroethylene dry cleaning industry: new, modified, and reconstructed professional dry cleaners and new, modified, and reconstructed coin-operated dry cleaners. Professional dry cleaners (both commercial and industrial) are distinguished from coin-operated dry cleaners in that professional equipment is not coin-operated and is not accessible to the customer. Coin-operated equipment is usually operated by the customer.

The proposed regulations consist of a combination of equipment, work practice, and operational standards that allow the best emission control. Professional dry cleaners using perchloroethylene would be required to install and operate a carbon adsorber or equivalent control device. Professional and coin-operated dry cleaners using perchloroethylene would be required to use good operating and maintenance procedures to prevent liquid and vapor leaks of perc from the affected facility. In addition, the treatment of waste solvent would be required to reduce the perc content before disposal. An inspection and maintenance program would also be required to prevent and correct solvent losses from leaks and equipment malfunctions.

Background

The dry cleaning industry is composed of approximately 30,000 small businesses and is generally located in the same area as the population it serves. Dry cleaners may use either perce, petroleum solvents, or trichlorotrifluoroethane to clean such articles as suits, dresses, or uniforms. At present the coin-operated segment of the industry shows a zero growth rate whereas the professional perc segment is growing at about the same rate as the general population, 0.9 percent.

The proposed standards affect only new, modified, or reconstructed dry cleaners using perc. Perc emissions contribute to ambient levels of ozone because perc participates in atmospheric ozone formation. Many areas of the country have ambient levels of ozone above the national ambient air quality standard. To assist States in controlling emissions from existing sources, EPA has published several Control Techniques Guideline (CTG) documents. Among these is a CTG for the perc dry cleaning industry (Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems, EPA–450/2–78–050). The purpose of the CTG is to recommend reasonably available control technology (RACT). The information developed for the perc CTG also serves as part of the basis for this proposed new source performance standard.

Initial work on controlling air emissions from the dry cleaning industry encompassed all three of the principal dry cleaning solvents. Draft standards were presented at a meeting of the National Air Pollution Control Technical Advisory Commitee (NAPCTAC) meeting on August 28, 1976. In respone to numerous industry comments on that presentation, further work was begun with the intention of writing a separate standard for each of the three solvents.

A draft standard for perc dry cleaners that would have established an emission limitation for dryer exhausts was presented to NAPCTAC in August 1979. Industry comments received on that draft standard, particularly those concerning the excessive economic impact of a performance test for the contorl device, resulted in the draft standard's being changed to an equipment standard.

By 1984, projected nationwide perc dry cleaner emissions from new and existing sources without the new source performance standard would be about 55,000 megagrams per year based on the industry's revenue data reported to the Bureau of Census. Data on the amount of perc sold to the industry indicates that the total perc emissions may be three times higher than the estimate given above. The impact analysis presented below uses the lower emission estimate to calculate the costs and emission reduction that would result from implementation of this standard. Selecting the lower emission estimate is a more conservative assumption to evaluate cost impacts because the smaller emission value minimizes the credit for solvent recovered by the control equipment. Using the lower estimate also results in a more conservative estimate of the emission reduction attributable to the standard. Because an understanding of baseline emissions is important in estimating the impacts of this rule, the Administrator solicits comments on the national perc consumption estimate used and requests additional data of clarify the apparent discrepancy between the data bases.

The regulation of perchloroethylene at this time is based principally upon its role as an ozone precursor and, as such, this action has not been coordinated with EPA's Toxic Substance Priority Commitee (TSPC). Although the potentially hazardous effects of perchloroethylene provide strong support for this action, the Agency's investigations on the possible listing of perchloroethylene as a hazardous air pollutant are being considered separately from this action. These investigations and recommendations will be coordinated with the TSPC.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards would reduce perc emissions from typical coin-operated facilities by about 25 percent and would reduce emissions from typical professional dry cleaners by about 50 percent. Affected facilities that are projected to come on line between 1980 and 1989 are expected to emit 18,000 megagrams of perc in 1989, if they are uncontrolled. If the proposed regulation is implemented, controlled emissions from these facilities are expected to equal 9,800 megagrams in 1989. Thus the proposed standards would reduce perc emissions by about 8,200 megagrams per year by 1989. This figure represents a reduction of 46 percent from the estimate of uncontrolled emissions.

Also affecting nationwide emissions estimates would be any emission reduction attributable to State or local regulations. Revised State Implementation Plans (SIP's) that may incorporate the RACT recommendations in the CTG for perc dry cleaners were due to be submitted to the Administrator by July 1, 1980. Revised SIP's for perc dry cleaning are only required in those areas that are in violation of the National Ambient Air Quality Standards (NAAQS) for photochemical oxidants and that cannot demonstrate compliance with the NAAQS without applying RACT by July 1982. The previous emission estimates do not attribute any emission reduction that may occur due to State SIP's because the magnitude of their impact will not be known until after proposal of this standard.

The water quality impact associated with this standard is considered small. The only potentially adverse impact of the proposed regulation on water quality would be caused by solvent in the steam condensate from the regeneration (solvent desorption) of carbon adsorbers. The effluent water stream from this process may contain up to 100 parts per million (ppm) perc by weight. It is estimated that the total perc to be sewered nationally by perc dry cleaners with carbon adsorbers in 1984 will be 1.5 to 4 megagrams and will increase to 3 to 9 megagrams in 1989. Therefore, no single body of water would receive more than an insignificant amount of perc because this effluent would be dispersed across the entire country. The increase in perc effluent represents an increase of about 15 percent over the amount of perc that would be disposed of by perc dry cleaners without a new source standard.

The solid-waste impact of the proposed regulations is considered insignificant. The proposed standard would not increase the quantity of filter and still wastes generated because the standard would require some removal of perc from these wastes before their disposal; however, activated carbon used in carbon adsobers must eventually be replaced. This would create new solid wastes, although the replacement should occur only at 15-year intervals. Therefore, the first solid waste impact of the proposed standards would not occur until 1995 and would amount to less than 120 megagrams of spent carbon for that year. The amount of solid waste is expected to grow at the same rate as the dry cleaning industry, 0.9 percent.

The total increased electricity usage resulting from the proposed regulations for all affected facilities in 1984 is about 13.9 gigawatt hours per year (GWh/yr). This increased usage, which results from the use of fans on carbon adsorbers, is equivalent to about 23,000 barrels of fuel oil per year for electrical generation. Thus the proposed regulations result in a nominal (less than 1 percent) increase in electricity usage for the industry.

An increase in fuel usage (normally natural gas or fuel oil) is required to produce steam to desorb the carbon. For new sources in 1984, the increase will be about 51.0 terajoules per year (TJ/yr) (48,000 $\times$ 10^6 Btu/yr). This figure represents an increase of less than 1 percent in the total fuel usage by the industry and is equal to about 8,200 barrels of fuel oil per year.

Coin-Operated Dry Cleaners

Under the proposed regulations, coin-operated dry cleaners would not be required to install any additional equipment. The equipment cost for a new coin-operated dry cleaner would increase from about $9,000 to about $16,000 if emission controls like those required on professional dry cleaners were required on coin-operated facilities. Because of this cost increase and the attendant increase in operating costs, the proposed rule does not require carbon adsorbers for coin-operated dry cleaners. Therefore, only proper operation and maintenance of the affected facility and proper treatment of waste materials are required for these facilities. Costs for these procedures are negligible.

Professional Dry Cleaners

The proposed regulations for professional dry cleaners (both commercial and industrial) require the use of a carbon adsorber or equivalent control device to control emissions from dryer or dry-to-dry machine exhausts. In addition, there are maintenance and operating practices and waste content requirements similar to those required for coin-operated dry cleaners. Capitol costs for control equipment are expected to range from $4,000 to $12,000. Calculated annualized costs range from about $600 per year for a small commercial dry cleaner to a savings of over $13,000 per year for an industrial dry cleaner; however, because the lower solvent consumption figures were used to estimate these annualized costs in order to give the "worst-case costs," actual annualized costs may be lower than projected. Reclaimed solvent accounts for the savings achievable with these control techniques, and this saving increases with increased throughput. The cost imposed on small dry cleaners is, however, relatively minor and is not expected to affect industry investment or structure.

The annualized cost for the standards after 5 years is expected to be about $1 million for approximately 3,300 new, modified, and reconstructed professional perc dry cleaners. This industry, however, is highly competitive. Thus new facilities would be unlikely to charge higher prices when competing with existing dry cleaners. Therefore, no retail price increase is expected from the regulations. Rather, the profitablility of new sources would be decreased slightly, by a maximum of about 0.9 percent.

Rationale

Selection of Source

Section 111 of the Act requires establishment of standards of performance for new, modified, or reconstructed stationary sources that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. EPA has determined that sources that emit perc contribute to the formation of ozone, a criteria pollutant for which national ambient air quality standards have been established under the authority of Section 109 of the Act. Though perc has a relatively low chemical reactivity rate in the ozone formation process, the Agency's policy for ozone precursors (44 FR 35314) affirmed that many of the volatile organic compounds (VOC) previously designated as having low reactivity were moderately or highly reactive under conditions characteristic of urban atmospheres. Most dry cleaners are located in or near urban areas. Also, compounds that have low reactivity can form appreciable amounts of ozone under multiday stagnation conditions such as those that occur during summer in many areas. The potential for ozone air pollution from emissions of perc may reasonably be anticipated to endanger the public health and welfare; therefore, perc emissions from dry cleaners are proposed for regulation under Section 111 of the Act.

The Priority List of sources for new source performance standards (NSPS) (44 FR 49222) identified various sources of emissions on a nationwide basis in terms of the potential improvement in emission reduction that could result from the imposition of NSPS. The sources on the list are ranked based on decreasing order of potential emission reduction. When all three primary dry cleaning solvents were considered, dry cleaners ranked 5th of 59 sources on the list. If listed separately, it is estimated that perc dry cleaners would rank between 8th and 12th on the list.

Though other dry cleaning solvents are currently in use, the proposed standard applies only to perc because sufficient data for the establishment of standards for other dry cleaning solvents are not yet availabe. A standard for petroleum dry cleaning is under development. The third dry cleaning solvent, trichlorotrifluoroethane, will be considered for regulation in the future.

Selection of Pollutants and Affected Facilities

Perc dry cleaning facilities emit only one air pollutant, perchloroethylene. The largest sources of perc emissions in perc dry cleaning facilities are dryers or dry-to-dry machines. The affected facilities are defined as perc dry cleaning dryers or dry-to-dry-machines, washers, filters, muck cookers, and stills.

In the dry cleaning industry, the replacement rate of worn-out equipment is greater than the expected growth rate of new facilities. Selection of dryers and dry-to-dry machines as affected facilities is made to ensure that replacement of existing dryers or dry-to-dry machines with new equipment would require the facility to meet control requirements. Designation of the dry cleaning system as the affected facility would have exempted replacement dryers and dry-to-dry machines from the standard unless an increase in resulting emissions or a capital expenditure of 50 percent of the system replacement cost accompanied the replacement.

Selection of Basis of Proposed Standards

Two principal control options were apparent for reducing perc emissions from dry cleaning plants:

1. Replace perc with a nonphotochemically reactive solvent.
2. Require the use of a carbon adsorber or other control devices to control perc emissions from dryers or dry-to-dry machines, the identification and repair of all leaks, and the reduction of perc content in waste materials.

The only readily available alternative solvents are petroleum solvents and trichlorotriflouoroethane. Petroleum solvents are photochemically reactive, so their use in place of perc would not reduce ozone formation. Furthermore, few dry cleaners are expected to be able to use petroleum solvents instead of perc, primarily because petroleum solvents are flammable and are, therefore, controlled by fire codes and insurance regulations. Existing perc dry cleaning equipment is not designed to utilize flammable solvents. Trichlorotrifluoroethane also has its disadvantages; for example, it does not have the same cleaning characteristics as perc and, according to industry spokespersons, may be unsuitable for heavily soiled articles. Trichlorotrifluoroethane equipment is more expensive than perc equipment and the solvent itself is three to four times as expensive as perc. Many of the projected new plants in the commercial sector would not be constructed if the only solvent available were trichlorotrifluoroethane.

Switching to trichlorotrifloroethane would, however, result in a 100-percent reduction in perc emissions for the dry cleaning systems affected. New source standards eliminating perc emissions would reduce national VOC emissions by approximately 8,000 megagrams by 1984. However, there would be an accompanying increase in trichlorotrifloroethane emissions of about 3,100 megagrams for this option. Trichlorotrifloroethane has been implicated in the depletion of the stratospheric ozone layer, a region of the upper atmosphere that shields the earth from harmful ultraviolet radiation that increases skin cancer risk in humans. In view of this potential impact, it would be inappropriate for EPA to require perc dry cleaners to switch to trichlorotrifloroethane solvents.

New source standards based on the second control option would reduce national VOC emissions by about 4,000 megagrams annually by 1984 without an accompanying increase in trichlorotrifloroethane emissions. There would be three types of emission points covered by this option: (1) dryer or dry-to-dry machine exhausts, (2) leaks, and (3) waste materials. Dryer or dry-to-dry machine emissions would be directed to the control device. Perceptible leaks would be identified and repaired. Filter and distillation wastes would be treated to minimize the perc content before disposal.

Carbon adsorption has been commercially accepted as a dryer exhaust control technology for use in the professional dry cleaning sector of the industry, but not in the coin-operated sector. Fewer than 5 percent of the existing coin-operated machines use this control technique. Carbon adsorption is not considered economically reasonable for the majority of coin-operated dry cleaners because of the additional cost for boiler facilities to produce the steam necessary to desorb the carbon bed. For this reason, a coin-operated dry cleaner would only be require to control leaks and waste materials. This control would require good operation, maintenance, and inspection practices.

Selection of Format of Proposed Standards

Two basic approaches appeared applicable to establishing the format for the standard. The first focused on the emission points and led to separate standards for each specific emission source. The second approach focused on solvent consumption and led to a mass emission limitation format that would place a limit on the total consumption of perc per unit of articles cleaned. This format is similar to the industry technique of computing solvent "mileage" in pounds of articles cleaned per drum of solvent.

The first approach would require different formats for each of the three types of emission points: (1) equipment exhausts and vents, (2) leaks, and (3) waste materials. This approach is the same as that in the control techniques guideline (CTG) on perc dry cleaning and was chosen as the format for the proposed standards, based on the considerations discussed below.

Under Section 111(h) of the Clean Air Act, the Administrator may promulgate a design, equipment, work practice, or operational standard if he

> * * * determines that (A) a pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

Either concentration limitations, mass emissions standards, or equipment standards could be used to limit emissions from dryer or dry-to-dry machine exhausts at professional dry cleaners. An equipment standard reduces the impact on the profitability of small dry cleaners because this format for the standard does not require an expensive performance test but does require the use of a carbon adsorber or equivalent control device. The annualized cost to a small commercial dry cleaner would be approximately $600 for an equipment standard and $1,000 for a concentration limit or mass emission standard, assuming no more than one performance test would be required over the life of the adsorber. The use of performance tests is not feasible because the economic impact of even a single performance test is considered to be too great for small dry cleaning plants. Foe these reasons, an equipment standard requiring the use of carbon adsorbers was chosen to limit emissions from these sources.

As much as 25 percent of the emissions from a controlled facility can be attributed to leaks. Possible formats for a standard to control these leaks are a work practice standard or a maximum emission limit standard. Because the control of these emissions requires maintenance, a logical format for a standard is a work practice standard, specifying an inspection program to locate leaks and limiting the time period for performing the required maintenance. The maximum emission limit format for a leak standard would require the enclosure of the leak source to quantify the emission rate. Because this procedure is time consuming and the application of measurement methodology is not practicable due to economic limitations, the work practice standard was chosen as the preferred format.

Possible formats for a standard limiting perc emissions from waste

materials are the establishment of work practices that reduce perc content in waste materials before disposal or the establishment of a limit on the concentration of perc in the waste. Perc dry cleaners generate three different types of waste materials: (1) regenerable filter wastes, (2) residue from solvent stills, and (3) used cartridge filters. The possible formats for a standard have been evaluated separately for each of these waste materials.

Regenerable filter wastes are typically heated in a muck cooker to drive off perc. The perc is recovered by condensation. A concentration limit on the waste material after cooking would require good operation of the muck cooker to minimize the perc content in the muck before disposal. This concentration can be determined by a simple, inexpensive test.

Residue from solvent stills presents a case similar to that of the regenerable filters. Contaminated solvent is boiled at a temperature that volatilizes the solvent without volatilizing the contaminating greases or oils. The solvent vapor is then condensed and recovered. A concentration limit has the same advantages for controlling emissions from solvent stills as it has for controlling emissions from regenerable filter material.

Cartridge filters present a different case, however. These filters cannot normally be heated to recover perc because most of these filters are designed to be disposable and, therefore, are not designed for ease of solvent reclamation. Instead they are drained of excess solvent in their housings and are then disposed of. Performance tests for a concentration format would require the drying of used cartridges to a constant weight. This process can take 2 weeks or longer and cannot usually be performed without the use of laboratory facilities for the entire time which is expensive, making performance testing economically unfeasible. A work practice format would specify a minimum drain time for cartridge filters. This format has the advantage of not requiring a lengthy performance test while maintaining the same control level. Therefore, a work practice standard was chosen for cartridge filters.

Equivalent Systems of Emission Reduction

These standards of performance do not preclude the use of other emission control equipment or procedures of operation that can be demonstrated to be equivalent, in terms of reducing VOC emissions, to those prescribed in the proposed regulation. For determination of equivalency, any person may submit test data and request the Administrator's approval of alternative equipment. The submittal must describe the equipment, test procedures, date and location of the test, and test results. Upon request, the Administrator will also review proposed test procedures for technical feasibility.

Equivalency for dryer or dry-to-dry machine exhaust control equipment can be demonstrated by any person including users or manufacturers of equipment. In order to determine equivalency, the Administrator must find a substantial likelihood that the control technology used in normal operations would produce equivalent emission reductions as the standards would require, at approximately the same or less energy or adverse environmental impact.

To permit the use of alternative systems for carbon adsorption, the Administrator must find either (1) that the control device reduces dryer or dry-to-dry machine emissions by a minimum of 95 percent, averaged over the drying cycle, or (2) that a dry cleaning system employing the control device can achieve an average solvent loss rate of 5 kilograms, or less, per 100 kilograms of articles cleaned. These limits were chosen based on test data from carbon-adsorber-equipped facilities where both types of tests were performed. Although there is no exact correspondence between dryer emission control and average solvent loss, the latter demonstration of equivalency is allowed because control efficiency measurements of multipass control systems are substantially more difficult than such measurements for single-pass systems (e.g., carbon adsorbers).

Some of the other control devices available for perc dry cleaners are multipass control systems, such as refrigerated condensers and direct contact condensers. These units are typically installed to eliminate the exhaust to the atmosphere from the dryer (or dry-to-dry machine) with a closed-loop arrangement. Test data from one solvent mileage test indicate that refrigeration units on dry-to-dry machines may achieve emission rates comparable to a well-operated carbon-adsorber-equipped facility, and industry sources have reported equally promising results for the direct contact condenser.

Selection of Numerical Emission Limits, Equipment Standards, and Work Practice Standards

1. *Equipment Exhausts and Vents*

The standard is based on the predominant type of carbon adsorber in use by the industry today. Activated carbon in those systems typically adsorbs about 1 kilogram of perc for each 5 kilograms of carbon before regeneration. Test data and industry sources also indicate that a well-operated, well-maintained dry cleaning machine ducts about 1 kilogram of perc to the carbon adsorber for each 30 kilograms of articles cleaned. The proposed standard, therefore, requires the carbon bed to be desorbed before it reaches its capacity, as indicated by the throughput of articles cleaned. The maximum throughput allowed by the standard before desorption is 6 kilograms of articles cleaned per kilogram of carbon in the adsorber. This number is based on the above data which indicate that to capture each kilogram of perc no more than 30 kilograms of articles can be cleaned for each 5 kilograms of carbon in the adsorber.

To prevent ineffective desorbing techniques, a requirement for desorbing the bed with a minimum of 170 kilopascals (kPa) (10 pounds per sq. inch (psig)) steam is included in the regulation. This requirement is based on current industry practice. Additionally, carbon adsorbers must be designed to accommodate the unrestricted air flow from the dry cleaning equipment to prevent back pressure on the dry cleaning machine and possible vapor leaks. Also, the air flow must achieve a minimum rate to dry the bed after the desorbing process to ensure proper operation after desorption.

2. *Leaks*

The control of leaks depends on finding the leaks and repairing them. Inspections to find leaks can be performed daily, weekly, monthly, or at other intervals. Daily inspections were judged too burdensome for the many small dry cleaners who would be affected. Weekly inspections could be made during days of lower consumer demand without affecting production. Longer intervals would not allow for timely discovery of leaks. Therefore, weekly inspections are required.

After leaks are found, repairs are required. Emissions from leaks can be reduced by minimizing the length of time before repair. Immediate repair could be burdensome to dry cleaners because of lost production during periods of peak demand. Also, in some cases, required parts may not be on hand. To lessen the impact of the standard, 3 days have been allowed for the leak to be repaired or for required parts to be ordered.

3. *Waste Materials*

The proposed standard would set limits on the amount of perc contained in waste products generated at a dry cleaning facility. These waste products may include residue from regenerable filters, cartridge filters, and solvent stills.

The processing of waste materials to minimize the perc content before disposal is the objective of the proposed standards. Stills can be operated, according to test data, to reduce the perc content to 60 kilograms per 100 kilograms of wet waste material. Industry representatives have agreed that these levels can be achieved by increased distillation times which result in the optimum operation of the still to reduce the perc content without significantly increasing the operating cost of the still. Care must be taken, however, to prevent grease and oils from being evaporated along with the perc. More stringent control levels are not viable for typical dry cleaners because of the likelihood that these contaminates would appear in the reclaimed perc.

Similarly, the proper operation of a muck cooker at test dry cleaners has been demonstrated to reduce the perc content to 25 kilograms per 100 kilograms of wet waste material through the use of improved operating procedures. This technique has been endorsed by industry trade organizations in recommendations to their members. Control levels below 25 kilograms per 100 kilograms of wet waste material are too stringent for typical dry cleaners because of the length of cooking time required. The proposed standard would require the 25-kilograms-per-100-kilograms level to be met.

Cartridge filters are usually drained in their housings or other sealed containers before disposal. the proposed standard would require a minimum of 24 hours of drain time. This time is based on manufacturers' recommendations. Normally, draining would occur over a weekend with the filter's being replaced on the following Monday morning. Therefore, no loss of production time would occur. Another option would have required cartridge filters to be dried in housings vented to carbon adsorbers. This option was not chosen because it could preclude development of other control devices that might be equivalent to carbon adsorbers.

Selection of Monitoring Requirements

The principal monitoring technique that can be used is inspection for leaks. Inspection by the owner or operator for leaks is routine maintenance necessary for the most efficient operation of the dry cleaner. Leaks would be required to be repaired within 3 days; otherwise, a copy of a purchase order showing required parts to be on order must be in evidence. This procedure would minimize perc losses from perceptible leaks by limiting the time for such leaks to be repaired. No other monitoring requirements are included because sufficiently accurate continuous monitors were not found.

For determining compliance witha the liquid leak standard, any liquid leak large enough to drip or run off would be considered "perceptible" and would have to be repaired. This inspection would be visual. Perceptible vapor leaks are more difficult to quantify, but would consist of vapor leaks that are obvious from the odor of perc in the general area or by observation of gas flow by feel, application of bubble solution, or similar means.

Determination of the perc content of waste materials would be accomplished by using ASTM D322–67, with modifications to account for the fact that perc is heavier than water and to give a weight percent rather than a volume percent.

No reports to the Administrator or records are required for several reasons. First, when a carbon adsorber is installed, it is to the economic advantage of the owner or operator to use it. Second, this industry is primarily made up of small businesses upon which recordkeeping would be burdensome. Finally, it is in the spirit of regulatory reform to minimize the burden of regulations when possible and when consistent with achieving a given environmental goal.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations whould contact EPA at the address given in the Addresses section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the Addresses section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for perc dry cleaners was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare in accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Standards of performance for new sources established under Section III of the Clean Air Act reflect:

> application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieveing such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, such technology might not be selected as the basis of standards of performance because of costs associated with its use. Accordingly, these standards of performance should not be viewed as the ultimate in achievable emissions control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the lowest achievable emission rate (LAER) for new or modified sources locating in nonattainment areas (i.e., thse areas where statutorily mandated health and welfare standards are being violated). In this respect, Section 173 of the Act requires that new or modified sources

constructed in an area where ambient pollutant concentrations exceed the NAAQS must reduce emissions to the level that reflects the LAER, as defined in Section 171(3), for that source category. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

(A) The most stringent emission limitation [that] is contained in the implementation plan of any state for such class or category of source unless owner or operator of the proposed source demonstrates that such limitations are not achievable.

(B) The most stringent emission limitation [that] is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in Section 169(1)) employ best available control technology (BACT) (as defined in Section 169(3)) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants that would exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIP's) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must, in some cases, require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Ths regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

1. Add Subpart OO to the Table of Sections as follows:

Subpart OO—Standards of Performance for Perchloroethylene Dry Cleaners

Sec.

60.410 Applicability and designation of affected facility.

60.411 Definitions.

60.412 Standards for volatile organic compounds.

60.413 Equivalent equipment and procedures.

60.414 Test methods and procedures.

Authority: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

2. Add Subpart OO as follows:

Subpart OO—Standards of Performance for Perchloroethylene Dry Cleaners

§ 60.410 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities: perchloroethylene dry cleaning dryers, dry-to-dry machines, washers, filters, muck cookers and stills.

(b) Any facility under paragraph (a) of this section that commences construction or modification after ———— (date of proposal) is subject to the requirements of this part.

§ 60.411 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in subpart A of this part.

"Carbon adsorber" means a bed of activated carbon into which perchloroethylene vapors are introduced and trapped for subsequent desorption.

"Cartridge filter" means a discreet solvent filter unit designed to be replaced periodically.

"Coin-operated dry cleaner" means a perchloroethylene dry cleaner activated by the customer. Such dry cleaners are typically coin-operated.

"Desorption" means regeneration of an activated carbon bed by removal of the adsorbed solvent, usually with steam.

"Dryer" means a machine used to remove perchloroethylene from articles of clothing or other textile or leather goods, after washing and extraction of excess perchloroethylene.

"Dry-to-dry machine" means a perchloroethylene dry cleaning machine in which washing, extraction, and drying are all achieved in the same single unit.

"Dry cleaning system" means an affected dryer or dry-to-dry machine and its ancillary washers, filters, muck cookers, stills, interconnecting piping and ducts, and solvent tanks which must be present in order to complete the dry cleaning process.

"Muck cooker" means a device for heating regenerable filter material to drive off perchloroethylene vapors for reclaiming.

"Perchloroethylene dry cleaners" means the dry cleaning dryers or dry-to-dry machines and their ancillary equipment.

"Perceptible leaks" means any perchloroethylene vapor or liquid leaks that are obvious from (1) the odor of perchloroethylene, (2) observation of gas flow by feel or application of bubble solution, or (3) visual observation, such as pools or droplets of liquid.

"Professional" means any perchloroethylene dry cleaner not activated by the customer and includes, but is not limited to, commercial and industrial perchloroethylene dry cleaners.

"Regenerable filter material" means the residue from a filter using loose diatomaceous earth.

"Still residue" means the mixture of perchloroethylene, oils, and other material that must be periodically removed from a solvent still.

"Stills" are defined as devices used to volatilize and recover perchloroethylene from contaminated solvent removed from the cleaned articles.

"Wet waste material" means the undiluted filter material from a regenerable filter or the undiluted residue from a solvent still.

§ 60.412 Standards for volatile organic compounds.

(a) Each owner or operator of a perchloroethylene dryer or dry-to-dry machine used by a professional dry cleaner shall install, operate, and maintain a carbon adsorption unit for the control of volatile organic compound emissions from the dryer or dry-to-dry machine. The carbon adsorber must be designed and operated to meet the following requirements:

(1) Desorption before cleaning 6 kilograms of articles per kg of activated carbon, based on dryer or dry-to-dry machine rated capacity,

(2) Desorption with a minimum steam pressure of 170 kPa,

(3) A rated air flow capacity at least equal to the unrestricted exhaust rate of the dry-to-dry machine or, if applicable, at least equal to the sum of the unrestricted exhaust rates of the washer and dryer, and a minimum air flow capacity of 0.3 cubic meter per second,

(4) no bypass to the atmosphere during desorption.

(b) No owner or operator of a regenerable filter subject to the provisions of this subpart shall dispose of regenerable filter material unless the perchloroethylene content of the regenerable filter material has been reduced to 25 kilograms of perchlorethylene, or less, per 100 kilograms of wet waste material.

(c) No owner or operator of a still subject to the provisions of this subpart shall dispose of still residue unless the perchloroethylene content of the still residue has been reduced to 60 kilograms of perchloroethylene, or less, per 100 kilograms of wet waste material.

(d) No owner or operator of cartridge filters subject to the provisions of this subpart shall dispose of used cartridge filters unless the cartridge filter has been drained in its housing, or other sealed container, for a minimum of 24 hours, or has been dried in an enclosure vented to a carbon adsorber.

(e) The owner or operator of an affected facility subject to the provisions of this subpart shall repair perceptible leaks within 3 working days or, if repair parts are necessary, a purchase order for those parts must be initiated within 3 working days.

§ 60.413 Equivalent equipment and procedures.

(a) Upon written application from any person, the Administrator may approve the use of equipment or procedures that have been demonstrated to his satisfaction to be equivalent, in terms of reducing VOC emissions to the atmosphere, to those prescribed for compliance within a specified paragraph of this subpart. The application must contain a complete description of the testing procedure and the date, time, and location of the test, and a description of the test results.

(b) For the purpose of determining equivalency of control equipment required by § 60.412(a), the Administrator will evaluate the application to determine the adequate demonstration of either:

(1) 95 percent control of dryer emissions, averaged over the drying cycle, or

(2) An average solvent loss rate of 5 kg, or less, per 100 kg of articles dried, for the dry cleaning system, averaged over a minimum of 20 consecutive work days and based on machine capacity.

(c) If the the Administrator's judgment an application for equivalence may be approvable, the Administrator will publish a notice of preliminary determination in the **Federal Register** and provide the opportunity for public hearing. After notice and opportunity for public hearing, the Administrator will determine the equivalence of the alternative means of emission limitation and will publish the final determination in the **Federal Register.**

§ 60.414 Test methods and procedures.

(a) Each owner or operator of an affected facility subject to the provisions of this subpart shall make a weekly inspection of the affected facility to determine compliance with § 60.412(e).

(b) ASTM Method D322–67, as modified below, is used to determine compliance with § 60.412(c) and § 60.412(d). A sample of the wet waste material to be disposed of is taken from each of three different batches of waste materials. Each of the three samples is analyzed using ASTM Method D322–67 modified by using a Bidwell-Sterling type distillation trap in place of a gasoline dilution trap and by adding a known sample mass to the flask instead of a known sample volume so as to obtain a weight prcent of perchloroethylene in the waste material.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

[FR Doc. 89–36702 Filed 11–24–80; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62 and 64

[Docket No. FEMA–FIA–60]

National Flood Insurance Program Coverage, Sales and Loss Prevention Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the National Flood Insurance Program regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy terms and provisions, and the sale of flood insurance in communities participating in the National Flood Insurance Program. The purpose of the amendment is to revise the Program regulations to reflect improvements in the Flood Insurance Manual used by private sector property insurance agents and brokers in producing flood insurance business, coverage changes in the contract of flood insurance, and advances in flood hazard mitigation engendered by the President's Executive Order 11988.

DATE: All comments received on or before December 26, 1980, will be considered before final action is taken on the proposed rule.

ADDRESS: Persons wishing to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 451—7th Street, SW, Room 5126, Washington, D.C. 20472, Telephone Number (202) 755–6580.

SUPPLEMENTARY INFORMATION: These proposed amendments are the result of over two years of operation of the National Flood Insurance Program as a Federal program of direct insurance during which time it became apparent that a renewed emphasis was in order in terms of delivering enhancements in flood insurance coverage to the insurance consumer, at rates more reflective of the risk and with a reduction in risk through innovative insurance loss prevention measures. Accordingly, these amendments provide a broadening of coverage under the Standard Flood Insurance Policy balanced by an increase in the basic deductible provisions and, in the agents

flood insurance manual of rules and rates which will be effective simultaneously with these amendments, an overall rate increase of 30%. In addition, the minimum acceptable premium has been increased from $25.00 to $50.00 and the commissions payable to agents, on premium amounts in excess of $2,000 have been reduced from 15% to 5%, consistent with private sector practices of providing graduated commission arrangements as between insurers and producers.

Of equal importance, increased loss prevention—the cornerstone of any successful insurance program—will be provided by the flood plain management provisions which will establish an insurance procedure involving the individual rating of structures in coastal high hazard areas to implement § 9.11(e) of 44 CFR Part 9.

Actuarial rating of structures on an individual risk basis will serve to further the program goals of providing incentives for hazard mitigation while permitting adequate coverage under premium rates which assure that sizeable risks of loss from flooding incident to dangerous coastal areas are borne by the owners of properties at risk. Thus, those who prefer to remain in coastal high hazard areas will be expected to conform to certain minimum construction standards and submit detailed building plans with any building permit application for a coastal high hazard area to facilitate accurate actuarial rate determinations and assure meaningful hazard mitigation measures in these areas. These matters are being considered as amendments to Parts 59, 60 and 64, and are being proposed in recognition of the President's flood plain management initiatives, expressed in Executive Order 11988, and implemented by FEMA at 44 CFR Part 9, on September 9, 1980.

Part 61 of the amendments, in addition to increasing the basic deductible, includes a graduated reduction in the deductible for one to four family residential buildings, clarifies the provisions for calculating the effective date of new flood insurance policies, and details amendments to those policy provisions involving certain properties and contents which are uninsurable under the program by the exclusion from coverage of serious pollutants (unless stored at or above base flood elevation or, in its absence, ground level) and buildings, 50% of the actual cash value of which are below ground (while, at the same time encouraging the use of earth as an insulation material in conjunction with energy efficient building techniques).

The Standard Flood Insurance Policy has been amended to provide, as an additional hazard mitigation tool, increased cost of construction coverage with which flood damaged single family residences not located in dangerous coastal high hazard areas or in floodways can be reconstructed after a flood to comply with improved construction practices in effect in the community by virtue of its participation in the National Flood Insurance Program; an enhanced replacement cost provision as to one to four family homes; dwelling coverage to the owners of units in condominium-type residential buildings; and definitive policy renewal provisions.

In Part 62, the reduction in the minimum commissions payable to agents is reflected, along with some editorial revisions.

FEMA has determined that an environmental impact statement is not needed for this proposed rule. A copy of the finding of no significant impact is available for inspection at the above address.

Accordingly, Subchapter B of Chapter I of Title 44 is proposed to be amended as follows:

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

1. At § 59.1, the definition "Area of special flood hazard" is revised to read as follows:

* * * * *

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM or V on the FIRM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zones A and V are usually refined into Zones A, AO, AH, A1–99, V, VO, and V1–30.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.3 [Amended]

1a. Section 60.3(e)(2) is revised to read as follows:

* * * * *

(e) * * *

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zones V1–30 on a community FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement;

(ii) Obtain, if the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed;

(iii) Require on and after August 1, 1981, that applicants include, with their application or request to the community for the issuance of a building permit and as a condition for the issuance of a building permit, a certification from the Federal Insurance Administration stating the FIA estimated base flood elevation (including the 500-year elevation for critical actions, 44 CFR 9.4), including wave height, of the proposed structure and the approximate actuarial flood insurance rate that will be charged by the National Flood Insurance Program in respect to flood insurance coverage for the proposed building upon completion of construction, in accordance with information previously submitted to FIA by the applicant for the permit concerning the following matters (which matters the community shall advise the applicant of):

(A) The siting of the proposed construction and extent to which it is in conformance with local, state and federal zoning and building regulations, including but not limited to, protection of dunes, site of building behind dunes, and conformance with local zoning regulations with regard to shoreline and property lines,

(B) The adequacy of foundations against all effects including water, waves and erosion (or scour),

(C) The connections of floor beams to piles, piers or other foundation types (special attention is needed to properly bolt floor beams and bracing to piles),

(D) The type of connections to foundation throughout the structure from floor beams up through floor system and the walls to the roof for an integral storm-resistant behavior,

(E) Copies of design plans, including but not limited to details concerning (*1*) the elevation of the lowest habitable floor and of the ground level adjacent to the structure, as proposed, and whether or not such structure will contain a basement, (*2*) the dimensions of any support pilings and the depth of their placement, (*3*) the type of building material to be used, and (*4*) the type of barrier, if any, existing between the proposed structure and the potential water, wave and erosion hazards, and;

(F) Maintain a record of subparagraphs (i), (ii) of this paragraph and the FIA Certification obtained pursuant to (iii) with the official designated by the community under Sec. 59.22(a)(9)(iii).

1b. New § 60.3(f) is added as follows:

* * * * *

(f) When the Administrator has designated Zone V on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (b), except for (b)(5), of this section and the requirements of paragraph (e) of this section within V Zones;

(2) Provide that all new construction within Zone V is located landward of the reach of mean high tide;

(3) Provide (i) that all new construction and substantial improvements within Zone V are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level and (ii) that a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;

(4) Obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator as criteria for use under subparagraph (3),

(5) Provide that all new construction and substantial improvements within Zone V have the space below the lowest floor free of obstruction or be enclosed with open wood constructed lattice "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Portions of the space below the lowest floor may also be enclosed by readily removable insect screening provided that no additional permanent supports are required. A community shall notify the permit applicant in writing over the signature of a community official that, on and after February 1, 1981, open wood constructed lattice "breakaway walls," insect screening, or any contents located below the lowest floor are not insurable under the program. A record of this notification shall be maintained by the community.

(6) Prohibit the use of fill for structural support of buildings within Zone V,

(7) Prohibit the placement of mobile homes, except in existing mobile home parks and mobile home subdivisions, within Zone V,

(8) Prohibit man-made alteration of sand dunes and mangrove stands within Zone V which would increase potential flood damage,

(9) For the purpose of the determination of applicable flood insurance risk premium rates within any Zone V, meet the requirements of paragraph (e)(2) of this section.

PART 61—INSURANCE COVERAGE AND RATES

§ 61.5 [Amended]

2. Section 61.5(d) is revised to read as follows:

* * * * *

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The deductible is calculated as follows:

(1) in the case of a residential building having five or more dwelling units and a non-residential building, the amount of the deductible for each loss occurrence is $250 and the insurer shall be liable only when such loss exceeds $250 and then only for the amount in excess of this deductible, which deductible shall apply separately to each building, including debris removal, and expenses incurred under the Standard Flood Insurance Policy (Appendix A(1) and A(2), at paragraph "F" of "Perils Excluded") and;

(2) in the case of a one to four family residential building, the loss deductible shall apply separately to each building loss including debris removal, and to each household contents loss including debris removal and expenses incurred under the Standard Flood Insurance Policy (Appendix A(1) and A(2), at paragraph "F" of "Perils Excluded"), and the amount of the deductible for each loss occurrence is determined as follows: the insurer shall be liable only when such loss exceeds $250; and when the loss is between $250 and $2499, the insurer shall be liable for 111 percent of the loss in excess of $250; and when the loss is $2500 or more, no deductible shall apply.

3. Section 61.5(f) is revised to read as follows:

* * * * *

(f) The following property and contents for residential structures are not insurable under the Program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts, or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water, including boat houses or other similar buildings into which boats are floated; personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure;

(4) Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (Silos and grain storage buildings including their contents, may be insured even though they may be of container-type construction);

(5) Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there is no established elevation);

(6) Buildings and their contents, including machinery and equipment which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;

(7) A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation or lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds, and (iv) any additions to the mobile home be similarly anchored;

(8) As to any building in respect to which construction or substantial improvement started on and after February 1, 1981, in Zone V, obstructions below the building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", any personal property or other

contents located below the building's lowest floor;

(9) Animals, birds, fish, aircraft, motor vehicles including parts and equipment (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

4. Section 61.5(g) is revised to read as follows:

* * * * *

(g) The following property and contents for non-residential structures are not insurable under the Program:

(1) All of the kinds of uninsurable property and contents referenced at paragraph (f)(1) through (8), of this section.

(2) Automobiles including parts and equipment, any self-propelled vehicle or machine, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured; watercraft or aircraft.

5. Section 61.10 is revised to read as follows:

§ 61.10 Minimum premiums.

The minimum premium required for any policy, regardless of the term or amount of coverage is $50.00.

6. The title of Section 61.11 is revised to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

* * * * *

§ 61.11 [Amended]

7. Section 61.11(b) is amended by adding the phrase, "after receipt by the NFIP (P.O. Box 34294, Bethesda, Maryland 20034)," following the word "effective".

8. Section 61.11(d) is amended by deletion of the phrase, "with a minimum of $4."

9. New § 61.11(e) is added as follows:

* * * * *

(e) With respect to any submission of an application in connection with new business, the payment by an Insured to an Insured's agent or the issuance of premium payment by the agent does not constitute payment to the NFIP. Therefore, it is important that an application for Flood Insurance and its premium be mailed to the NFIP (P.O Box 34294, Bethesda, Maryland 20034) promptly in order to have the effective date of the coverage based on the application date plus the waiting period. Thus, if the application and the premium payment are received at the NFIP within ten (10) days from the date of application or are mailed by certified mail within ten (10) days from the date of application, the waiting period will be calculated from the date of application. If the application and premium payment are received after ten (10) days from the date of the application or are not mailed by certified mail within ten (10) days from the date of application, the waiting period will be calculated from the date of receipt by the NFIP. To determine the effective date of any coverage added by endorsement to a flood insurance policy already in effect, substitute the term "endorsement" for the term "application" in this paragraph (e)

§ 61.13 [Amended]

10. Appendix A(1) is revised as follows (deleted matter is in brackets, new matter is in italics, any provision not revised remains the same):

a. The Insuring Agreement is revised as follows:

Appendix A(1)

Federal Emergency Management Agency, Federal Insurance Administration—Standard Flood Insurance Policy

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

Dwelling Form

In consideration of the payment of the premium, in reliance upon the statements in the application and declaration form made a part hereof and subject to all the terms of this policy, the Insurer does insure the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind or quality within a reasonable time after such loss [without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and], without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured, against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located or contained as described in the [application and] declaration form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere. *Contents so moved are insured against loss or damage from flood at the new location only if placed in a fully enclosed building.*

Assignment of this policy by the Insured is allowed. the Insurer under this Policy is the Federal Emergency Management Agency.

* * * * *

b. The "PROPERTY NOT COVERED" provisions are revised to read as follows:

Property not Covered

This policy shall not cover:

* * * * *

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, docks; other open structures located on or partially over water, *including boat houses or other similar buildings into which boats are floated;* or personal property in the open.

C. Land values, lawns, trees, shrubs or plants, growing crops, or livestock; [underground structures or underground equipment] and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure;

* * * * *

E. *Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (Silos and grain storage buildings including their contents, may be insured even though they may be of container-type construction);*

F. *Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there are no established elevations);*

G. *Buildings and their contents, including machinery and equipment, which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;*

H. *A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation or lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home,*

with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less that 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to the mobile home be similarly anchored;

I. *As to any building in respect to which construction or substantial improvement started on and after February 1, 1981 in Zone V obstructions below the building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", and any personal property or other contents located below the building's lowest floor;*

* * * * *

c. The "DEDUCTBILES" provisions are revised as follows:

Deductibles

[A. With respect to loss to the dwelling, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00.

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded", the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00].

A. *Each loss sustained by the Insured is subject to a deductible provision under which the Insured bears a portion of the loss before payment is made under the policy.*

B. *The loss deductible shall apply separately to each building loss including debris removal and expenses incurred under paragraph F of "Perils Excluded".*

C. *The amount of the deductible for each loss occurrence is determined as follows: the Insurer shall be liable only when such loss exceeds $250; and when the loss is between $250 and $2499, the Insurer shall be liable for 111 percent of the loss in excess of $250; and when the loss is $2500 or more, no deductible shall apply.*

* * * * * * *

d. The "REPLACEMENT COST PROVISIONS" are revised as follows:

Replacement Cost Provisions

These provisions shall apply only to a one to four (1–4) Family Dwelling covered hereunder. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from the replacement cost coverage.

A. *Replacement cost coverage, (i.e., the full cost of repair or replacement) without regard to the relationship the amount of insurance bears to the value of the structure at the time of loss, is provided up to the amount of insurance for a 1–4 family building provided that at the time of loss the name Insured or the named Insured's spouse lived in the owned building for either (1) 80% of the calendar year immediately preceding the loss or (2) 80% of the period of ownership of the insured building by the name Insured, if less than one calendar year immediately preceding the loss.*

B. [A.] If at the time of loss the total amount of insurance applicable to a 1–4 family dwelling not eligible for coverage under paragraph A of this policy provision, exclusive of mobile homes, is 80% or more of the full replacement cost of such dwelling, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such dwelling is extended to include the full cost of repair or replacement (without deduction for depreciation).

* * * * *

The succeeding paragraphs "C", "D", "E", and "F" of the section titled "REPLACEMENT COST PROVISIONS" retain the same language and are re-lettered "D", "E", "F" and "G", respectively.

* * * * *

H. *If the dwelling should sustain a total loss or if the Insurer should pay the entire building loss proceeds as a result of a single loss occurrence under these replacement cost provisions, there is no requirement that the dwelling be rebuilt on the same location.*

e. A new policy provision titled "INCREASED COST OF RECONSTRUCTION OR REPAIR" is added between the provisions titled "REPLACEMENT COST PROVISIONS" and "GENERAL CONDITIONS AND PROVISIONS" as follows:

Increased Cost of Reconstruction or Repair

A. *These provisions shall apply only to a single family, detached building covered hereunder.*

B. *If, at the time of loss, the flood damage to the building exceeds fifty 50 percent of the market value of the building at the time of loss, coverage is extended (up to the amount of building coverage purchased) to include the increased cost of reconstruction or repair necessary to comply with the Federal Insurance Administration approved flood plain management measures enacted by the community to conform to or exceed the National Flood Insurance Program regulations, but only if, at the time of loss:*

(1) *the building is insured for at least 80 percent of the building's replacement cost or is insured to the maximum amount of insurance available; and*

(2) *the named Insured or the Insured's spouse lived in the owned building for either (a) 80% of the calendar year immediately preceding the loss or (b) 80% of the period of ownership of the insured building by the named Insured, if less than one calendar year immediately preceding the loss.*

C. *These provisions apply to any building which is not located in a floodway or V-Zone designated as such by the Federal Insurance Administration on a Flood Boundary Floodway Map or Flood Insurance Rate Map (FIRM) and which qualifies under "A" and "B", above, in respect to which, construction or substantial improvement was started (1) before the effective date of the Flood Insurance Rate Map (FIRM) issued by the Federal Insurance Administration for the community in which the building is located, or (2) on or after such effective date and the elevation of the lowest floor (including basement) of the building is at or above the base flood elevation in effect at the start of construction.*

D. *Except for provisions A, B, and C, above, no allowance shall be made under the policy for any increased cost of reconstruction or repair by reason of any ordinance or law regulating construction or repair.*

f. A new policy provision titled "CONDOMINIUM UNIT OWNER COVERAGE" is added between the provisions titled "INCREASED COST OF RECONSTRUCTION OR REPAIR" and "GENERAL CONDITIONS AND PROVISIONS," as follows:

Condominium Unit Owner Coverage

If the named Insured on this policy is the owner of a unit in a condominium style building and, in common with

other unit owners of the building, is an owner of the building's common structural elements, then at the time of loss by flood the following terms, subject to all other provisions of the policy, unless expressly modified herein, will apply.

1. *The building coverage of this policy, subject to the amounts of insurance stated on the Declarations Form attached to this policy, will cover, up to the extent of the Insured's percentile ownership of and responsibility for damage to the common elements, damage to all structural items, which are a part of the described building and are owned by the Insured in common with the other condominium association members, and damage to all structural items within the Insured's condominium unit, including walls, floors, ceilings, and their related coverings, such as paint, paper, panelling, carpeting and tile. In addition, the Insured may apply up to 10% of the amount of insurance, applicable to such condominium unit, not as an additional amount of insurance, to cover loss to structural items of the building owned by the Insured in common with the other condominium association members.*

Included as structural items, as to both the common elements and units in the building, are installed appliances for heating, cooling, plumbing and electrical purposes.

2 *The contents coverage of the policy, subject to the amount of insurance stated on the Declarations Form attached to this policy, will cover, up to the extent of the Insured's percentile ownership of and responsibility for damage to the common elements, damage to all contents which are contained in the described building and are owned by the Insured in common with the other condominium association members, and damage to the contents items within the Insured's condominium unit.*

3. *The policy deductible provisions shall apply, as to 1 and 2, above, only once per loss occurrence.*

4. *Provided, however, in the case of a condominium unit owner, the Insured may not apply any part of the amount of building coverage, as stated on the Declarations Form, to cover loss to appurtenant structures, whether such structures are solely owned by the Insured or are owned by the Insured in common with the other condominium association members*

g. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

General Conditions and Provisions

* * * * *

U. Policy Renewal—The term of this policy commences on its inception date and ends on its expiration date, as shown on the "Declarations Form" which is attached to the policy. This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the premium payment for any such successive policy term is received by the National Flood Insurance Program (NFIP), prior to the expiration date of this policy. The renewal premium payment shall be deemed to be received by the NFIP if the renewal payment is mailed to the NFIP prior to the expiration date and is received by the NFIP prior to or within five (5) days following the expiration date or if the renewal payment is mailed by certified mail to the NFIP prior to the expiration date. In all other cases, whether the renewal premium payment is received by the NFIP after the expiration date of this policy or not, this policy shall be deemed terminated as of the expiration date of the last policy term for which the premium payment was timely received by the NFIP and the Insurer shall not be obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse or policy renewal.

h. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

V. Voidance Due to Community Ineligibility—If, during the term of the policy, the participation in the National Flood Insurance Program of the community in which the insured property is located ceases, the policy shall be deemed voided effective the end of the last day of the policy year in which such cessation occurred and shall not be renewed. In the event the voided policy was for a term of three years, the insured shall be entitled to a full refund of any premium applicable to the remainder of the policy's term after voidance of the policy.

* * * * *

11. Appendix A(2) is revised as follows (deleted matter is in brackets, new matter is in italics, any provision not revised remains the same):

a. The Insuring Agreement is revised as follows:

Appendix A(2).—Federal Emergency Management Agency, Federal Insurance Administration

Standard Flood Insurance Policy (Issued Pursuant to the National Flood Insurance Acts of 1968, or Any Act Amendatory Thereof)

General Property Form

In consideration of the payment of the premium, in reliance upon the statements in the application and declarations form made a part hereof and subject to all terms of this policy, the Insurer does insure the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss [Without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and] without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured, against all direct loss by "flood" as defined herein, to the property described while located or contained as described in the [application and] declarations form attached hereto or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood" but not elsewhere. *Contents so moved are insured against loss or damage from flood at the new location only if placed in a fully enclosed building.*

Assignment of this policy by the Insured is allowed. The Insurer under this Policy is the Federal Emergency Management Agency.

* * * * *

b. The "PROPERTY NOT COVERED" provisions are revised to read as follows:

Property Not Covered

This policy shall not cover:

* * * * *

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water, *including boat houses or other similar buildings into which boats are floated;* or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; [underground structures or underground equipment] and those portions of walks, driveways and other paved or poured

surfaces outside the foundation walls of the structure.

* * * * *

F. *Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (silos and grain storage buildings, including their contents, may be insured even though they may be of container-type construction);*

G. *Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there are no established elevations).*

H. *Buildings and their contents, including machinery and equipment, which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;*

I. *A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation of lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to the mobile home be similarly anchored;*

J. *In Zone V obstructions below a building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", and any personal property or other contents located below the building's lowest floor.*

The "DEDUCTIBLES" provisions are revised as follows:

Deductibles

A. With respect to loss to the building, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of [$200.00] *$250.00.*

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded", the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of [$200.00] *$250.00.*

d. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

General Conditions and Provisions

* * * * *

U. *Policy Renewal—The term of this policy commences on its inception date and ends on its expiration date, as shown on the "Declarations Form" which is attached to the policy. This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the premium payment for any such successive policy term is received by the National Flood Insurance Program (NFIP), prior to the expiration date of this policy. The renewal premium payment shall be deemed to be received by the NFIP if the renewal payment is mailed to the NFIP prior to the expiration date and is received by the NFIP prior to or within five (5) days following the expiration date or if the renewal payment is mailed by certified mail to the NFIP prior to the expiration date.*

In all other cases, whether the renewal premium payment is received by the NFIP after the expiration date of this policy or not, this policy shall be deemed terminated as of the expiration date of the last policy term for which the premium was timely received by the NFIP and the Insurer shall not be obliged to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse or policy renewal.

e. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

V. Voidance Due to Community Ineligibility—If during the term of the policy, the participation in the National Flood Insurance Program of the community in which the insured property is located ceases, the policy shall be deemed voided effective the end of the last day of the policy year in which cessation occurred and shall not be renewed. In the event the voided policy was for a term of three years, the Insured shall be entitled to a full refund of any premium applicable to the remainder of the policy's term after voidance of the policy.

PART 62—SALE OF INSURANCE AND ADJUSTMENTS OF CLAIMS

§ 62.3 [Amended]

12. The address in § 62.3(b) is revised to read as follows:

* * * * *

(b) * * *

EDS Federal Corp., 6430 Rockledge Drive, Bethesda, Maryland 20034.

13. The address in § 62.3(d) is revised to read as follows:

* * * * *

(d) * * *

National Flood Insurance Program, P.O. Box 34294, bethesda, MD 20034.

14. Section 62.6 is revised to read as follows:

§ 62.6 Minimum Commissions

(a) The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures for an insured, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Policy term	Premium amount	Commissions (percent)
One year	First $2,000	15
	Excess of $2,000	5
Three years	First $6,000	15
	Excess of $6,000	5

(2) In the case of mid-term increases in amounts of insurance added by endorsement, the following commissions shall apply based on the total premium paid for the increased amounts of insurance:

Premium amounts	Commission (percent)
First $2,000	15
Excess of $2,000	5

(b) Any refunds of premiums authorized under this subchapter shall not affect a previously earned commission; and no agent shall be required to return that earned commission, unless the refund is made to establish a common policy term anniversary date with other insurance providing coverage against loss by other

perils in which case a return of commission will be required by the agent on a pro-rata basis. In such cases, the policy shall be immediately rewritten for a new term with the same amount(s) of coverage and with premium calculated at the then current rate and, as to return premium, returned, pro-rata, to the insured based on the former policy's premium rate.

§ 62.7 [Removed]

14. Section 62.7 is deleted in its entirety.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§ 64.3 [Amended]

15. Section 64.3(a)(1) is amended by the addition of Zone symbol "V" between Zone symbols "AO", "AH" and "VI-30", as follows:

V—Area of special flood hazards, without water surface elevations, with high velocity waters that is inundated by tidal floods.

16. Section 64.3(b) is revised as follows:

* * * * *

(b) Nature of the issuance of new or revised FHBMs or FIRMs is given in Part 65 of this subchapter. The mandatory purchase of insurance is required within designated Zones A, A1–99, AO, V, V1–30, VO, M and E.

National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 41943), Executive Order 12127, dated March 31, 1979 (44 FR 19367) Executive Order 11988, dated May 24, 1977 and 44 CFR Part 9, Delegation of Authority to Federal Insurance Administrator)

Issued at: Washington, D.C, October 31, 1980.

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80–36674 Filed 11–24–80; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 80–603

Direct Broadcast Satellites for Period Following 1983 Regional Administrative Radio Conference; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Inquiry; Extension of comments and reply comment period.

SUMMARY: This Order extends the deadline for filing comments and reply comments, concerning interim direct broadcast satellite systems only, for one week. Deadlines for comments concerning permanent regulatory policies remain unchanged. The extension will avoid inconvenience to the public resulting from a deadline falling the day after Thanksgiving.

DATE: Comments on interim regulations must be received on or before December 5, 1980. Reply comments must be received on or before December 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Florence Setzer, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

Order Extending Time Comments and Reply Comments—(45 FR 72719)

Adopted: November 7, 1980.

Released: November 14, 1980.

By the Chief, Office of Plans and Policy:

1. It has been brought ot our attention that November 28, 1980, the deadline for filing comments on regulation of interim direct broadcast satellite systems in the above-captioned proceeding, is the Friday after Thanksgiving. In order to avoid inconvenience to the public, we find it appropriate to extent the deadline for comments and reply comments by one week.

2. Therefore, it is ordered, that the date for filing comments is extended to and including December 5, 1980, and the deadline for filing reply comments is extended to and including December 22, 1980.

3. 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 Section 0.271 of the Commission's Rules.

4. The Secretary shall cause this order to be published in the **Federal Register.**

Federal Communications Commission.

Nina W. Cornell,

Chief, Office of Plans and Policy.

[FR Doc. 80–36677 Filed 11–24–80; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–526; RM–3599]

FM Broadcast Station in Rifle, Colo.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment and reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in the proceeding involving a proposed FM channel assignment to Rifle, Colorado. Garfield County Broadcasters request the additional time to prepare and submit engineering data.

DATES: Comments must be filed on or before November 21, 1980, and reply comments on or before December 10, 1980.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: October 28, 1980.

Released: November 3, 1980.

By the Chief, Policy and Rules Division:

1. On August 19, 1980, the Commission adopted a *Notice of Proposed Rule Making,* proposing the assignment of Class C FM Channel 287 to Rifle, Colorado (45 Fed. Reg. 58615, published September 4, 1980), in response to a petition filed by Garfield County Broadcasters. Comments are presently due Octuber 21, 1980, and reply comments November 10, 1980.

2. Garfield County Broadcasters, has filed a request seeking an extension of time for filing comments to and including November 21, 1980. It states that the additional time is needed to prepare and submit engineering data.

3. We believe that the public interest would be served by granting the extension so that Garfield County Broadcasters may file information that may be helpful to the Commission in resolving this proceeding. It will also be necessary to extend the reply comment deadline.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 80–526 (RM–3599) are extended to and including November 21, 1980, and December 10, 1980, respectively.

5. This action is taken pursuant to 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.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36556 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-733; RM-3649]

FM Broadcast Station in Spirit Lake, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Spirit Lake, Iowa, in response to a petition filed by Paul C. Hedberg. The proposed assignment could provide a first local aural broadcast service to Spirit Lake.

DATES: Comments must be filed on or before January 13, 1981, and reply comments must be filed on or before February 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 18, 1980.

Released: November 26, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Paul C. Hedberg ("petitioner"), proposing the assignment of Channel 280A to Spirit Lake, Iowa, as that community's first FM assignment.

(b) The channel can be assigned to Spirit Lake in compliance with the minimum distance separation requirements.

(c) Petitioner states that he will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Spirit Lake, in Dickinson County, is located approximately 309 kilometers (192 miles) northwest of Des Moines.

(b) *Population:* Spirit Lake—3,014,[2] Dickinson County—12,565.

(c) *Local Aural Broadcast Service:* None.

3. *Economic Consideration:* Petitioner states that Spirit Lake's economy is based on agriculture. He further states that the proposed channel would serve the Iowa Great Lakes Region, a resort area comprised of three lakes; West Okoboji, East Okoboji and Spirit Lake and five communities: Spirit Lake, Okoboji, Arnold Park, Milford and Wahapeton. Petitioner claims that the resort area attracts an estimated quarter million persons annually. Economic and demographic information was submitted to demonstrate the need for a first FM assignment to Spirit Lake.

4. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Spirit Lake, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to the following community;

City	Channel No.	
	Present	Proposed
Spirit Lake, Iowa		280A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 13, 1981, and reply comments on or before February 2, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will goven the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and

[1] Public Notice of the petition was given on May 7, 1980, Report No. 1227.

[2] Population figures are taken from the 1970 U.S. Census.

Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-36755 Filed 11-24-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-731; RM-3650]

FM Broadcast Station in Wiggins, Miss.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Wiggins, Mississippi, in response to a petition filed by Community Broadcasting Co., Inc. The proposed channel could provide a first full-time local aural broadcast service to Wiggins.

DATE: Comments must be filed on or before January 13, 1980, and reply comments on or before February 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 14, 1980.

Released: November 25, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rulemaking[1] was filed by Community Broadcasting Co., Inc. ("petitioner"), proposing the assignment of FM Channel 237A to Wiggins, Mississippi, as that community's first FM assignment.

(b) the channel can be assigned to Wiggins provided the transmitter is located 4.5 kilometers (2.8 miles) northwest of the city.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Wiggins, seat of Stone County, is located approximately 140 kilometers (90 miles) northeast of New Orleans, Louisiana.

(b) *Population* Wiggins—2,995,[2] Stone County—8,101.

(c) *Local Aural Broadcast Service:* Wiggins is served locally by daytime only AM Station WIGG, licensed to petitioner.

3. Petitioner states that Wiggins is in need of a full-time station as an outlet for coverage of emergencies and for sports and other programming after sunset.

4. In view of the fact that the proposed FM channel assignment would provide for a first local FM broadcast service to Wiggins, Mississippi, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Wiggins, Mississippi, as follows:

City	Channel No.	
	Present	Proposed
Wiggins, Miss.		237A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE*: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 13, 1981, and reply comments on or before February 2, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rule Division, Broadcast Bureau.

[1] Public Notice of the petition was given on May 7, 1980, Report No. 1227.

[2] Population figures are taken from the 1970 U.S. Census.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments

shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-36754 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-438]

Representatives of Stations by Representatives Owned by Competing Stations in the Same Area; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of time for filing reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding to determine whether the Commission's policy prohibiting a licensee from representing a rival station in the same area should be continued. The request for additional time to prepare and submit reply comments was made on behalf of Lotus Rep Corp., Jack Masla and Co., and Pro Time Sales.

DATE: Reply comments must be filed on or before November 24, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Pamela Riley, Broadcast Bureau, (202) 632-3860.

In the matter of representatives of Stations by Representations owned by Competing Stations in the Same Area, BC Docket No. 80-438. See also 45 FR 55242, August 14, 1980.

Adopted: September 29, 1980.

Released: October 3, 1980.

1. On July 31, 1980, the Commission adopted a *Notice of Inquiry* to gather information regarding the *Golden West* policy to determine whether the policy should be continued in its present form or changed in some manner. Comments are due October 14, 1980, and reply comments are due October 31, 1980.

2. Counsel for John Blair and Company (Blair), a national sales representative for 96 television stations and 149 radio stations and also a licensee of several stations in various locations, filed a request seeking additional time for filing comments to and including October 28, 1980 and for filing reply comments to and including November 14, 1980. Counsel states that Blair's comments will be helpful to the Commission in arriving at answers to questions set forth in the *Notice of Inquiry* and in determining whether and in what direction the current policy should be changed. Counsel requests the extension of time because of intervening commitments and believes that the extension would permit preparation of comments which would be more helpful to the Commission.

3. We believe that the public interest would be served by granting the extension so that Blair may prepare comments which would be beneficial to the Commission in resolving the issues raised by the *Notice of Inquiry*.

4. Accordingly, it is ordered, That the above request for an extension of time is granted and the date for filing comments is extended to and including October 28, 1980 and the date for filing reply comments is extended to and including November 14, 1980.

5. 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 § 0.281 of the Commission's rules.

Federal Communications Commission.

Stephen F. Sewell,

Acting Chief, Complaints and Compliance Division Broadcast Bureau.

[FR Doc. 36681 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201, 1241

[No. 37203]

Cost Center Accounting and Reporting System for Class I Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Suspension of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is suspending until further notice the rulemaking proceeding to consider adopting a cost center accounting and reporting system for Class I railroads. This action is necessary because the Commission's new costing methodology, the Uniform Rail Costing System, has not been fully implemented. Further, recent railroad legislation presents alternative accounting approaches which could preclude the adoption of the proposed cost center system.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking served under Docket No. 37203 on October 26, 1979, and published in the **Federal Register** on October 30, 1979 (44 FR 92312) the Commission began a proceeding to consider a proposed cost center accounting and reporting system for Class I railroads. The Commission extended the original comment date from December 31, 1979, to February 29, 1980, by a Notice published in the **Federal Register** on January 3, 1980 (45 FR 809).

The proposed cost center accounting and reporting system is designed to meet specific data requirements of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act). It attempts to disaggregate system-wide accounting and statistical data by prescribing a lower level of data capture as a cost center. These cost centers include line segments of trackage, terminal switching districts for yards, locomotive types for individual locomotives, and specific specialized service facilities.

The proposed system requires carriers to maintain operating expenses of the Uniform System of Accounts for Railroads (49 CFR 1201, Subpart A) by more specific levels of data accumulation than currently prescribed. These detailed expenses would provide input data to the new costing methodology, the Uniform Rail Costing System (URCS).

The URCS uses regression analysis techniques to determine the extent of variability of individual expense accounts with one or more measures of railroad output. By establishing the variable components of railroad expenses, unit costs can be developed for the various output measures. The implementation of the URCS has been delayed because of certain technical problems with the regression analysis phase. The Bureau of Accounts should be completed with this phase by November 30, 1980.

We need to objectively measure the benefits of cost center accounting and reporting over the present system-average data, including any

improvements it provides to the efficient operation of the URCS. Since the URCS implementation has been delayed, we believe it is premature to prescribe the proposed cost center accounting and reporting system.

Generally, railroad respondents to this proceeding cite excessive implementation and system maintenance costs as well as limitations of their existing internal accounting systems to accommodate the proposed cost center system. They maintain that the cost center proposal creates unnecessary duplication of accounting system. While it is inherently difficult to produce an accounting system for regulatory service costing that is nonduplicative with railroad internal responsibility accounting systems, we need to measure the benefits of this proposal over alternative methods.

Further, we believe current legislation should be considered. The Railroad Transportation Policy Act of 1980 establishes a Railroad Accounting Standards Board that would issue cost accounting standards to be followed by the Commission, railroads and shippers. Railroads would be able to use their existing system, revised if necessary, to meet the standards. A specific cost center accounting and reporting system would be unnecessary.

We believe, therefore, that further consideration of the cost center accounting and reporting system should be deferred until the Commission has analyzed the URCS results and the new railroad legislation.

In the interim, we will conduct further research in FY 1981 on alternative accounting approaches that would provide essential cost data within the parameters of the 1980 Act and existing railroad internal accounting systems. These accounting approaches range from issuing cost accounting standards or guidelines to prescribing a detailed cost center system.

We also will study the alternative that carriers report data by prescribed cost categories which are at a more summary level than the proposed cost centers. The railroads could aggregate their management accounting data to meet the requirements of category reporting. This not only requires specific definitive reasons for introducing cost categories to the URCS; it also requires the development of practical guidelines for railroad input without introducing major changes to their existing level of data capture. This will require extensive exploration since it involves developing standards that can be uniformly applied to all Class I railroads.

This action does not affect significantly the quality of the human environment or the conservation of energy resources.

This action is made under the authority of 49 U.S.C. 553 and 49 U.S.C. 10321.

Decided: October 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80-38606 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE COURTS OF THE UNITED STATES

Board of Certification, United States Circuit Courts of Appeals, Court Executive

Standards for Certification as Circuit Executive; Board Meeting

AGENCY: Board of Certification, United States Circuit Courts of Appeals; Court Executive.

ACTION: Notice of standards for certification as circuit executive and notice of Board meeting.

SUMMARY: The Secretary of the Board of Certification sets forth the following standards for certification as circuit executive:

Standards for Certification as Circuit Executive

The Board of Certification, acting pursuant to Section 332(f), Title 28, United States Code, has promulgated the following standards for certification for appointment to the office of circuit executive.

An applicant must:

1. Possess executive ability, usually demonstrated by substantial experience in progressively more responsible management positions in government or in the private sector.

2. Possess superior judgment, understanding and tact and the capacity to maintain proper relationships with the courts, with government officials, and with members of the bar and the public.

3. Possess creative leadership, planning and organizing ability in order to contribute significantly to improved operating procedures.

4. Have experience in modern business and management techniques, and the ability to take advantage of automatic data processing and systems development.

5. Have demonstrated capacity to plan and conduct studies designed to improve the management of the business of the circuit court and of the district courts within the circuit, to make recommendations as a result of such studies, and to implement those recommendations that are approved.

6. Be able to express himself or herself clearly in writing and orally. The ability to conduct conferences and meetings, and to make public appearances is also important.

7. Have demonstrated substantial interest in judicial administration. While detailed familiarity with court procedures is not indispensable, formal training in court management and managerial experience is particularly valuable.

8. Have acquired an undergraduate degree. A graduate degree in business or public administration, or a degree in law, is desirable.

November, 1980

Certification as Circuit Executive

Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. Section 332(f)). While certification is a prerequisite for appointment as circuit executive, certification does not insure employment.

A personal interview with the Board is a prerequisite for certification and the Board cannot reimburse candidates for attendant travel expenses. The Board, however, would be pleased to meet from time to time in cities other than Washington, D.C. if the number of candidates in any particular region would appear to justify it.

Details on how to apply for certification may be had by writing to: Board of Certification, Federal Judicial Center, 1520 H Street, NW., Washington, D.C. 20005.

The next meeting of the Board will be held in San Francisco, California on February 23, 1981. Applications must be received well in advance in order to be considered for a possible appointment on this date.

William E. Foley,

Director of Administrative Office of the United States Courts and Secretary of the Board of Certification, United States Circuit Courts of Appeals.

[FR Doc. 80-36698 Filed 11-24-80; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Gila National Forest Grazing Advisory Board; Meeting

The Gila National Forest Grazing Advisory Board will meet at 10 a.m., December 19, 1980 in large Conference Room, Federal Building, 2610 North Silver Street, Silver City, New Mexico.

The agenda for this meeting is:

1. Range Management Plans
2. Program Planning for Range Betterment Funds

The meeting will be open to the public.

Dated: November 17, 1980.

Kenneth C. Scoggin,

Forest Supervisor.

[FR Doc. 80-36733 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980, pursuant to the charter of the Committee.

The Microcircuit Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the

Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: December 10, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: November 20, 1980.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 80-36769 Filed 11-24-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 6, 1981; Tuesday, January 13, 1981; Tuesday, January 20, 1981; and Tuesday, January 27, 1981 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

Dated: November 19, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer Washington Headquarters Services Department of Defense.

[FR Doc. 80-36685 Filed 11-24-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Regional Education Programs for Deaf and Other Handicapped Persons; Gifted and Talented Children's Education Program; Discretionary Program for Model Education; Correction

AGENCY: Department of Education.

ACTION: Correction of Application Closing Date Notice.

SUMMARY: Two technical corrections are made in the notice published on October 7, 1980 and titled "Direct Grant Programs: Application Notices for Fiscal Year 1981."

On page 66598 of volume 4—84.078 *Regional Education Programs for Deaf and Other Handicapped Persons* first column, under *Available Funds*, the second paragraph is changed to read as follows:

An applicant for a new grant may propose a project period of from 12 to 36 months. Applicants are encouraged to apply for a 12 month project period.

On pages 66606–66607, third column, the section is changed to read: 84.080 *Gifted and Talented Children's Education Program; Discretionary Program for Model Education.*

This notice is deleted. Applications for this program will not be accepted for fiscal year 1981.

Dated: November 20, 1980.

Stewart A. Baker,

Deputy General Counsel for Legislation and Regulations.

[FR Doc. 80-36742 Filed 11-24-80; 8:45 am]

BILLING CODE 4000-01-M

84.070 Ethnic Heritage Studies Program

Grant applications are invited for new projects under the Ethnic Heritage Studies Program. This notice changes the date for receipt of applications from that published October 7, 1980.

Authority for this program is contained in Part E of Title IX of the Elementary and Secondary Education Act, as enacted by Pub. L. 95–561. (20 U.S.C. 3361–3365)

This program makes grants to public and private non-profit educational agencies, institutions, and organizations.

The purpose of the grants is to provide assistance in planning, developing, establishing, and operating ethnic heritage studies programs.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand-delivered by January 8, 1981.

Applications Delivered by Mail: An application sent by mail must be

addressed to the U.S. Department of Education, Application Control Center, Attention: 84.070, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark;

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; and

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

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 (ROB–3), 7th and D Streets SW., Washington, D.C.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applicants may propose to carry out activities related to the: (a) development of curriculum materials, in subject areas relating to a particular ethnic group or groups at the elementary or secondary school or institution of higher education level, (b) dissemination of such materials, and/or (c) training of persons in the use of those materials.

Any one or combination of these activities shall be carried out in conjunction with people or organizations or both with an interest in the ethnic group or groups designated in the application.

The Secretary encourages applications that will plan for and implement statewide or school district-wide ethnic heritage studies projects that focus on teacher training in the use of, and in the dissemination of existing Ethnic Heritage Studies curriculum materials.

The Secretary expects that each such statewide or school district-wide project will be funded at no more than $175,000 per year. The Secretary expects that more narrowly-focused projects will be funded at no more than $60,000 per year.

The Secretary will implement the "geographic distribution of projects" provision of the regulations (§ 184.31(b)(2)) in the following manner. The applications will be placed in rank order on the basis of field reader ratings using the criteria established in the regulations. Within the group of applications ranking in the top 20%, the highest ranked application in each of the States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territories of the Pacific will be funded subject to the availability of an appropriation. If funds continue to be available, additional applications will be funded on the basis of ranking, except that if the projects do not collectively focus on a diversity of ethnic groups, the additional applications will be selected in a manner to assure such diversity.

An applicant may request funds for a multi-year project of up to three years. Projects selected for funding will receive funding for an initial budget period not to exceed 12 months. Funding in the second and third years are subject to the availability of funds, satisfactory performance, submission of reports, and a determination that the continuation of the project is in the best interest of the Federal Government. (Education Division General Administrative Regulations (EDGAR) §§ 100a.117 and 110a.253).

Pre-Applications: Pre-applications will not be considered for fiscal year 1981 funding.

Available Funds: It is expected that approximately $2,750,000 will be available in FY 1981 to support approximately 40 projects.

These estimates, however, do not bind the U.S. Department of Education to a specific of grants or to the amount of any grant.

Application Forms: Application forms and program information packages are expected to be ready for mailing not later than November 14, 1980. They may be obtained by writing to the Ethnic Heritage Studies Program, Office of School Improvement (Room 3928, ROB–3), U.S. Department of Education, 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 applications not exceed 25 pages in length.

The Secretary further urges that applicants not submit information that is not requested. Compliance with this suggestion should enhance the efficiency and objectivity of the analysis and evaluation of the applications.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Ethnic Heritage Studies (45 CFR Part 184) published April 8, 1980, at 45 FR 24040; and

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c) published April 3, 1980 at 45 FR 22494.

Further Information: For further information, contact Lawrence E. Koziarz, Director of Ethnic Heritage Studies Program, Office of School Improvement, Improvement, U.S. Department of Education (Room 3928, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: 202–245–9506 (20 U.S.C. 3361–3365).

F. James Rutherford,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 80–36661 Filed 11–24–80; 8:45 am]

BILLING CODE 4000–01–M

Office of Elementary and Secondary Education

Title I, Elementary and Secondardy Education Act; Compliance in Puerto Rico; Hearing Reconvened

AGENCY: Department of Education.

ACTION: Notice of reconvened public hearing in Puerto Rico.

SUMMARY: Notice is hereby given that the U.S. Department of Education will reconvene this pubic hearing concerning whether or not it is feasible for the Puerto Rico Department of Education (PRDE) to comply immediately with five Title I, ESEA requirements that are identified in PRDE's August 22, 1980 request for a compliance agreement with the U.S Secretary of Education. The hearing officer has asked the PRDE to responde to a detailed request for additional information. The hearing officer has also decided to convene the public hearing concerning the feasibility of the PRDE's immediate compliance. This notice: (1) sets forth the hearing officer's request for additional information; (2) announces the date, time, and place for the reconvened public hearing in Puerto Rico; and (3) describes the procedures that will be followed at the hearing.

DATE: December 3, 1980; 10:00 a.m. to 5:00 p.m.

ADDRESS: The Conference Room, Gimnasio Municipal de San Juan, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Dr. Harry J. Hogan, c/o Dr. Sarah G. Bishop, Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2181A, Washington, D.C. 20202, telephone 202–245–7881.

SUPPLEMENTARY INFORMATION:

A. PRDE's Request for a Compliance Agreement

Under the terms of Section 186(c) of the title I, ESEA statute, the Puerto Rico Department of Education (PRDE) has submitted a request for and has asked PRDE to respond to the following request for information:

I. Comparability of Instructional Services.

A. In practical terms, what are the Title I requirements concerning the comparabilty of instructional services?

B. How did the PRDE determine the comparabilty averages that were used in the comparability survey that was completed in August (i.e., are they based on per pupil expenditures and staff/pupil ratios in non-project schools or on data from all public schools serving certain grade spans)?

C. What is the extent of the PRDE's non-compliance with the comparabilty requirements? In your response, be as precise as possible and include answers to these specific questions:

1. Provide a copy of the comparability survey that the PRDE completed in August, 1980.

2. Has the PRDE conducted a more recent comparability survey or revised the data in the August 1980 survey? If so, submit a copy of such survey or revisions.

3. How many pubic shools in Puerto Rico are currently particpating in the Title I project?

4. How many of the schools that are currently participating in the Title I project do not meet the Title I comparabilty requirements? (Please provide a list of the schools that are not comparable and indicate what districts they are located in.)

5. How many students attend schools that are not comparable?

6. How many students attend schools that are comparable?

7. What are the reasons for the lack of comparabilty of Commonwealth-supported instructional services?

D. What options could the PRDE use to achieve compliance with the Title I comparability requirements? In your response, be as precise as possible and discuss the following options:

1. *Moving instructional staff.* How many would have to be moved to achieve compliance? How many of the staff are tenured? How many of the staff are not tenured? To what extent could compliance be achieved by moving non-tenured staff from one district to another?

2. *Moving students.* How many would have to be moved to achieve compliance? To what extent could compliance be achieved by moving children to schools that are close to the schools that they presently attend?

3. *Hiring additional instructional staff.* How many would have to be hired to achieve compliance?

4. *Combination of options.* How could these options be used simultaneously to minimize the cost and time needed to achieve compliance?

E. Why can't the PRDE use one or more of the options listed above to achieve compliance immediately? In your response, describe why the PRDE cannot take immediate action or why immediate action would not result in full compliance. Explain exactly why additional time is required and address the following specific questions:

1. Why can't the PRDE achieve full compliance by immediately moving instructional staff into non-comparable schools?

a. What effect do the tenure laws have on the ability of the PRDE to move staff immediately?

b. Why can't the PRDE solve the problem by immediately moving non-tenured staff?

c. What effect do employment contracts have on the ability of the PRDE to move non-tenured staff immediately?

d. What costs would be involved in achieving compliance by immediately moving instructional staff?

e. How does the need for additional classrooms prevent the immediate movement of instructional staff to achieve comparability? (Please cite some examples of this problem.)

f. What role does the Puerto Rico legislature and the Governor play in making a decision to move instructional staff immediately?

2. Why can't the PRDE achieve full compliance by immediately moving students?

a. What costs would be involved in achieving compliance by immediately moving students?

b. Why does the need for additional classrooms prevent the immediate movement of students to achieve compliance? (Please cite some examples of this problem.)

3. Why can't the PRDE achieve full compliance by immediately hiring additional instructional staff to work in the non-comparable schools?

a. What cost would be involved in achieving compliance by immediately hiring additional instructional staff?

b. How much time would be required to complete the process of recruiting and hiring a sufficient number of instructional staff to achieve compliance?

c. What role does the Puerto Rico legislature and Governor play in making a decision to solve the problem by immediately hiring additional instructional staff?

F. In summary, why can't the PRDE take action that will result in immediate compliance with the Title I comparability requirements?

II. Identification and Selection of Projects Areas

A. In practical terms, what are the Title I requirements concerning the identification and selection of project areas and schools?

B. How did the PRDE identify and select project areas and schools for participation in its Title I project during the 1980–81 school year?

C. Provide a copy of the "Socio-economic Survey" that the PRDE submitted to the U.S. Department of Education in August, 1980.

D. Has the PRDE conducted a more recent low-income survey or revised the data in its August 1980 survey? If so, submit a copy of such survey or revisions.

E. On the basis of the results of the most recent low-income survey, do all elementary schools in Puerto Rico qualify under the "25 percent rule"?

F. If the answer to the above question is yes, is there any reason for the PRDE to continue to include this requirement in its request for a compliance agreement?

G. If the PRDE is currently out of compliance with the requirements for the selection and identification of project areas and schools, what is the extent of the non-compliance?

H. What methods does the PRDE have for achieving compliance?

I. Why can't the PRDE use one or more of those methods to achieve compliance immediately?

III. Assessment of Educational Need

A. In practical terms, what are the Title I requirements concerning the assessment of educational need?

B. How does the PRDE currently assess educational need? In your response, discuss the use of objective measures and teacher evaluations.

C. How does the PRDE's current method for assessment of educational need not fully comply with the Title I requirements?

D. What steps must the PRDE take to achieve full compliance with the Title I requirements? In your response, discuss the need to develop evaluation instruments and to train teachers in their use.

E. What prevents the PRDE from immediately taking those steps and/or why wouldn't immediate steps result in full compliance?

IV. Allocation of Title I Funds on the Basic of Educational Need

A. In practical terms, what are the requirements that govern the allocation of Title I funds to project areas?

B. What method did the PRDE use to allocate its Title I funds for the 1980–81 school year?

C. Why did the PRDE use that method to allocate its Title I funds?

D. In what way does the PRDE's current method of allocating Title I funds fail to comply fully with the Title I requirements concerning the allocation of Title I funds?

E. What steps must the PRDE take to achieve full compliance with the Title I requirements concerning the allocation of Title I funds? In your response, discuss the relationship between the assessment of educational need and allocation of funds on the basis of need.

F. What prevents the PRDE from taking those steps immediately and/or why wouldn't immediate steps result in full compliance? In your response, discuss the timing of the process for allocating Title I funds and explain why it is not possible to immediately reallocate the Title I funds for the 1980–81 school year.

V. Establishment of Advisory Councils

A. In practical terms, what are the Title I requirements concerning the establishment of advisory councils?

B. What methods did the PRDE use to establish the Title I advisory councils that are currently functioning?

C. In what ways does the PRDE's current method of establishing advisory councils fail to comply fully with the Title I requirements concerning the establishment of such councils?

D. Which Title I advisory councils have been established in full compliance and which have been established through procedures that do not fully comply?

E. What steps must the PRDE take to achieve full compliance with the Title I requirements concerning the establishment of advisory councils?

F. What prevents the PRDE from taking those steps immediately and/or why wouldn't immediate steps result in full compliance?

B. Procedures for Reconvened Hearing

The reconvened public hearing will be conducted in accordance with the following procedures:

1. The hearing will be open to any interested members of the public, including members of the press.

2. The hearing officer, Dr. Harry J. Hogan, will make a brief opening statement describing the purpose of the hearing and the procedures that will be followed.

3. A court reporter will be employed to record the testimony that is presented at the hearing.

4. Copies of the hearing officer's request for additional information, and the PRDE's response to that request will be available at the hearing, and after November 20, 1980 from the hearing officer, from the PRDE, and from the HHS Audit Agency, Room 233 Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, Monday through Friday, between 9:00 a.m. and 4:00 p.m.

5. Testimony is invited regarding the hearing officer's request for additional information and the PRDE's response to that request.

6. All persons, or organizations, who desire to present testimony at the reconvened hearing must make that desire known and state how much time they would like to the hearing officer either by signing in at the entrance to the hearing room on the date of the hearing, or by contacting the hearing officer in advance at the following address: Dr. Harry J. Hogan, c/o Dr. Sarah G. Bishop, Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2181A, Washington, D.C. 20202, telephone 202–245–7881.

7. Persons needing a sign language interpreter should notify Dr. Sarah Bishop before November 28, 1980.

8. Oral testimony will be accepted in English or Spanish.

9. The PRDE and any interested persons may present written comments on the hearing officer's request for additional information and the PRDE's response. Any written material should be presented to the hearing officer prior to, or at the time of, the reconvened hearing, and preferably in English. However, at the hearing officer's discretion, written statements may be accepted and considered if they are postmarked on or before December 6, 1980 and sent to the address given in paragraph 6.

10. Since the PRDE has the burden of demonstrating that immediate compliance is not feasible, the PRDE's official representatives will be given time at the beginning of the hearing to present testimony.

11. Following the PRDE's initial presentation, other individuals or organizations who desire to speak will be given time for their presentation.

12. The hearing officer will determine the order of all presentations following the PRDE's testimony, and he will determine how much time will be allotted for each presentation. He will take into account the order in which presenters contacted him or signed in at the entrance to the hearing room. However, the hearing officer has the authority to hear presenters out of order if he judges that there is a good reason for doing so.

13. After all interested persons have made their presentations, the PRDE may present additional testimony.

14. The hearing officer may, at his discretion, give other presenters an opportunity to present additional testimony, and may impose time limits on such presentations.

15. No persons will be permitted to raise legal or procedural objections or otherwise interrupt the presentations being given by other persons.

16. All testimony should be relevant to the feasibility of PRDE complying immediately with the identified five requirements of Title I. The hearing officer may decline to accept testimony or evidence that is irrelevant, immaterial, or unduly repetitious. He will disregard irrelevant information in making any recommendation on the issues involved.

17. The hearing officer may interrupt any presentation to ask questions or seek clarification.

18. The hearing officer is responsible for maintaining order at the hearing and may establish whatever procedures that he considers to be appropriate to carry out that responsibility.

19. Other than these procedures, no formal rules of evidence or procedure apply to this hearing.

20. The hearing officer will present written recommendations to the Secretary regarding the feasibility of immediate compliance with each Title I requirement that is identified in the PRDE's request for a compliance agreement. The hearing officer must identify the testimony upon which he bases each of his recommendations.

21. If the Secretary determines, on the basis of all the facts, that immediate compliance with one or more requirements is not feasible, she will make written findings to that effect before entering into a compliance agreement with the PRDE. An announcement of the findings concerning the feasibility of immediate compliance and a copy of those findings will be sent to each person, or organization, who either submits a written statement or presents testimony at the hearing and requests that notification.

(Catalog of Federal Domestic Assistance No. 84.010, Educationally Disadvantaged Children, Local Educational Agency. Part I of OMB Circular A–95 does apply to this program)

Dated: November 19, 1980.

Thomas K. Minter,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 80–36662 Filed 11–24–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Great Plains Gasification Project; Record of Decision

Decision

The U.S. Department of Energy (DOE) has made a decision to issue a loan guarantee for a portion of construction costs for the Great Plains Project which will be located in Mercer County, North Dakota. The Federal loan guarantee will be in the amount of $1.5 billion, which represents 75 pecent of the eligible cost of the project. Initially, the DOE will issue a conditional commitment for the loan guarantee. Upon satisfactionof the conditions stated in the commitment, DOE will issue the loan guarantee. The authority to issue the loan guarantee is contained within Public Law 95–238, and the funding is provided by Pubic Law 96–126. This record of decision, which follows publication of a final Environmental Impact Statement for the project (DOE EIS–0072F, dated August 1980), is isssued in accordance with the regulations of the Council on Environmental Quality (40 CFR 1505.2), and the DOE guidelines (45 FR 20694, March 28, 1980) issued pursuant to the National Environmental Policy Act.

Project Description

The facility will occupy a 600 acre site approximately 65 miles northwest of the city of Bismarck, and 7 mile south of Lake Sakakawea. Municipalities near the site include: Beulah, 7 miles SSE; Hazen, 11 miles SE; and Zap 7 miles SSW. The facility and associated mines lie entirely within Mercer County.

The site will consist of buildings, process equipment, and coal storage facilities. In addition to the plantsite proper, a railroad spur will be extended from an existing Burlington Northern railroad spur (near Zap) 8 miles to the plant. Also, about 6 miles of new roads will be build near the plant and adjoining coal mines. An underground water pipeline, 7.6 miles in length, will be constructed from Lake Sakakawea southward to the plantsite. When operating, the plant will process approximately 14,000 tons day of lignite obtained from mines adjacent to the plant. The project will result in a 125 million cubic feet per day coal gasification facility. The gas produced from lignite will be comparable in quality to natural gas.

The process employed to convert coal to pipeline quality synthetic gas is the Lurgi pressurized fixed bed gasification process with Lurgi methanation. In addition to the Lurgi process units, Phosam ammonia recovery and Stretford sulfur removal will be utilized. This process design is a refinement based on the results of 1974 tests of the gasification properties of lignite. In August 1974, 12,000 tons of North Dakota lignite were shipped to the Sasol commercial gasification plant in Sasolburg, South Africa. Early in September 1974, full scale gasification tests, including a high load test, were run on an isolated gasifier. The results were satisfactory.

EIS Background

On August 8, 1980, the DOE notified the Environmental Protection Agency (EPA) that it had adopted NEPA documentation prepared by other Federal agencies, pursuant to the Council on Environmental Quality's regulations (40 CFR 1506.3) implementing of the national Environmental Policy Act. The documentation, which was republished by DOE along with a statement that there were no changes in circumstances that would effect a significant adverse environmental impact and thus require preparation of a Supplemental EIS, was:

ANG Coal Gasification Company, North Dakota Project Final Environmental Impact Statement. Bureau of Reclamation, U.S. Department of the Interior, FES 78–1, January 20, 1978. This document deals with the plantsite proper and associated operations.

ANG Coal Gasification Company, North Dakota Project. Supplement to the Department of Interior's Final Environmental Impact Statement. Federal Energy Regulatory Commission. FERC/EIS–001, April 1978. This document deals with the location of the product gas pipeline.

Final West-Central North Dakota Regional Environmental Impact Study on Energy Development. United States Department of the Interior, Bureau of Land Management and State of North Dakota, October 1978. This document deals with regional energy development and socioeconomic matters.

Public comments were received in the process of completing the about cited documents and those comments were incorporated in the final documents.

These three NEPA docuemnts were adopted and issued as the *Great Plans Gasification Project, Mercer County, North Dakota. Final Environmental Impact Statement.* DOE EIS–0072F, August 1980.

On August 15, 1980, the EPA published a public notice of this action in the **Federal Register** (45 FR 54437). In addition, the DOE mailed copies of EIS–0072F directly to approximately 650 parties. These parties included Federal and State agencies, environmental groups and individuals known to have an interest in the project.

Description of Alternatives and Basis of Decision

The alternatives discussed in the aforementioned three NEPA documents and reviewed by DOE on the basis of current information, as reflected in DOE's adoption of those documents as its EIS, were (a) no action, (b) alternative designs and processes, (c) alternative sites, (d) alternative uses of resources, and (e) alternative gas sources and other sources of future energy supply. These alternatives were considered from and environmental, economic and technical viewpoint. DOE's review confirmed decisions on the project made by other Federal and State agencies.

The "no action" alternative was considered and rejected due to inherent inconsistencies with the Administration's national energy goals and the intent of Congress in promoting the development of a domestic synthetic fuels industry. Public Law 96–126 states: "In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the *earliest time practicable*, there is hereby established in the Treasury of the United States a special fund to be designated the 'Energy Security Reserve', to which is appropriated $19,000,000,000, to remain available until

expended" (emphasis added). This law also provided the DOE with the funds to issue loan guarantees, for construction and startup costs for synthetic fuel facilities, up to a limit of $1,500,000,000. The goal for achieving production "at the earliest time practicable" was considered. In that regard DOE believes the Great Plains project is the only large scale commercial gasification project in the United States which is ready to begin construction immediately.

Alternative designs and processes were analyzed in the EIS. This evaluation included an engineering review of several gasification technologies, eventually arriving at the commercially proven Lurgi process as the best alternative for this application. Alternatives considered were Koppers-Totzek and the Winkler process. Both alternatives produce a synthetic gas with a very low methane content and the size of the methanation unit must be double the size required for Lurgi. Their other disadvantages are greater oxygen consumption and low operation pressure. The resultant synthetic gas has to be compressed to a final pipeline pressure of 1050 psig. The environmental impacts of the alternative gasification processes would essentially the same as the process selected.

Alternatives within the Lurgi process were considered. The Lurgi process areas are (1) gasification, (2) gas shift conversion, (3) gas cooling, (4) Rectisol, (5) Phenosolvan, (6) methanation, and (7) gas liquor separation. Lurgi proprietary equipment is used in areas 1, 4, 5 and 6 above; thus, gas quality and other performance guarantees only apply if Lurgi designs these elements of the system.

In the area of ammonia recovery, the Lurgi CCL process was compared with the U.S. Steel Phosam-W process. Both processes utilize the same feed stream and both produce commercial grade anhydrous ammonia. Prior selection of the Phosam-W process was confirmed for economic reasons.

For sulfur conversion, a combination of Stretford, Claus, and IFP processes was considered at first. During the 1974 Sasol test, with North Dakota lignite, it was discovered that the sulfur concentrations given off were too low to be effectively recovered by the Clause or IFP processes. Thus, a total Stretford system will be used.

Considerable testing and evaluation was also done in the area of coal preparation. Tests were conducted in the areas of coal drying, crushing and screening. The Sasol test showed that drying was not required. Crushing tests were used to provide data on final coal sizing and equipment selection. In a full scale screening test, a high probability screen, new to the American market, proved to be the best screen to use in the gasification plant.

In the initial decision, eleven sites were considered, all within west-central North Dakota due to the proximity of the sponsor's coal reserves and the availability of an adequate water supply. The proposed site was selected on the basis of combined engineering, economic and environmental criteria. Sites were rejected due either to impacts on wetlands and terrestrial and aquatic organisms, or due to excessive engineering problems and high economic penalties. The proposed site was selected as being the least environmentally damaging and most economically feasible site. DOE's review confirmed the selection.

Two routes for the product pipeline form the plant site to an existing pipeline system were addressed in the Final EIS. One route is a 365 mile pipeline from the plant site to Thief River Falls, Minnesota. The other route is a 25 mile pipeline connecting to the proposed Northern Boarder pipeline at a point approximately 10 miles south of Beulah, North Dakota. The decision regarding the product pipeline route will be made by the Federal Energy Regulatory Commission (FERC), on the basis of environmental and other criteria. In its disposition of the Great Plains product pipeline location, the FERC will appropriately comply with any further requirements of the National Environmental Policy Act, Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands), as necessary.

Alternative uses of the lignite resources were considered. Coal liquefaction and steam electric generation are the feasible alternatives since lignite has poor transportation economics and export is not as realistic alternative. An 880-megawatt steam electric power plant is under construction near the planned gasification facility, thus reducing the need for additional electric power generation in the region. Development of commercial coal liquefaction is a high priority within the DOE and is being supported at other localities. Other sources of energy supply were considered as an alternative to synthetic fuels. The use of oil or liquified natural gas is undesirable from a national goal of reducing imports. Nuclear power generation has encountered considerable delay. Solar and nonconventional energy sources are a high priority within the DOE but these alternatives are not currently at the stage of large scale commercial deployment. In adopting the NEPA documents as DOE's EIS, it was determined that the alternatives presented were reasonable and the preferred action was proper. The fact that during the period from 1978 to 1980 Great Plains obtained all major permits required for construction and operation of the facility supports the appropriateness of the action. Consequently, DOE believes that proceeding with the development of synthetic fuel industries, and the Great Plains project in particular, is in the national interest.

Environmental Impacts and Mitigation

Environmental alternatives have been reviewed. Mitigation and control measures have been incorporated in the project design and operation. From an environmental point of view alone, "no action" is the preferrable alternative. It was determined that the proposed project would best meet program goals. DOE is sensitive to concerns about the potential environmental impacts from the Great Plains Gasification Project during both construction and operation. Every reasonable, state of the art mitigation measure has been incorporated into the project. Potential impacts and mitigation measures are set out below.

Approximately 600 acres of land will be dedicated to the operation of the facility. During construction 300 acres will be cleared, thus disrupting vegetation and wildlife in that locality. In addition, as in all construction activities, the principal pollution impact will be the effect on air quality in the form of dust from the cleared land and vehicular emissions from heavy construction equipment operating at the site. Both sources of air pollutants will be localized at the site during construction and are not expected to be significant.

The construction labor force will vary from 200 at the beginning of construction and gradually increase to 3000 in the third year of construction. The permanent work-force necessary during operation of the plant will be approximately 500. While some impact will be felt by the local communities by an influx of workers, it is anticipated that more than 50 percent of these jobs will be filled by existing residents in nearby communities. As a mitigating measure, company provided quarters will be made available to ease the impact created by transient workers during the peak of construction.

No wetland or floodplain areas exist at the plantsite where the 300 acre clearing and construction activities will

occur. The avoidance of wetlands and floodplains was a factor in deciding upon the location of the gasification facility. Scattered wetlands do comprise about 0.3 percent of the land area of the minesites necessary to support the gasification facility over an operational period of 25 years. The mining will disrupt less than 12 acres of wetlands over that period of time. After mining and land reclamation at the minesites, the net acreage of wetlands is expected to remain at the same level of 12 acres that currently exists. No floodplains will be impacted at the minesites. Wetlands and floodplains will be impacted should the 365 mile product pipeline route be selected.

During operation of the gasification facility, air emission rates will be 1400 lbs/hr of SO_2, 550 lbs/hr of NO_x, and 160 lbs/hr of TSP. The Stretford sulfur recovery plant will remove in excess of 92 percent of the sulfur in the feed coal. Steam boilers will minimize NO_x formation and electrostatic precipitators and baghouses will remove particulate emissions from combustion and coal handling sources. Emissions from this facility will be significantly lower than those from a conventional steam generating plant producing an equivalent amount of useful energy. The requirements of Section 176(c) of the Clean Air Act (42 USC 7401 et. seq.) have been satisfied. All air permits required prior to construction have been obtained and the project is consistent with North Dakota's State Air Quality Implementation Plan.

Water impacts were also considered. Water supply for the plant will be obtained from Lake Sakakawea through a submerged intake designed to minimize ecological damage to the reservoir. The annual water withdrawal of 6400 acre ft/yr will change the lake level by less than 1 inch, and the volume consumed will not preempt other water users, even during periods of drought. The plant is designed to eliminate the discharge of process wastewater to surface streams. Process water will be reused as much as possible and forced evaporation and incineration will be used to dispose of waste water residuals. Brine from water softening and demineralizing will be disposed of via a deep well into a highly saline aquifer in accordance with EPA guidelines for underground injection control.

Surface mining of the lignite will be performed by an independent mining company. Annual lignite requirements of 4.7 million tons will result in the mining of approximately 160 acres per year. The mining activity associated with the project will be the primary cause of disturbance to plant and animal communities. Surface mining will result in the destruction of habitat for a period of 3 to 5 years after mining until reclamation is complete. Recent reclamation regulations calling for the segregation and return of topsoil and subsoil have proven to result in rapid reestablishment of plant communities. This system will be employed at the mining sites. Attempts will be made to provide a diverse habitat to accelerate the repopulation of reclaimed areas by any animal species originally displaced by mining.

Solid waste to be disposed of from the operation of the gasification plant will consist primarily of 1110 tons per day of wet ash from the gasifiers plus minor amounts of sulfur removal by-products. Areas of the mines suitable for ash disposal will be selected in accordance with solid waste disposal regulations. Monitoring wells will be located around all solid waste disposal areas to detect any movements of leachates should they occur.

The entire project area has been surveyed by the State Historical Society of North Dakota for the presence of areas of historical, paleontological and/or archeological significance. No such areas were identified on the proposed plant site although several sites of undetermined significance were identified in the mine area. Prior to mining, each identified site will be evaluated further. Appropriate mitigation measures will be determined based upon such evaluations and may include procedures such as photographing sites, excavation of artifacts, and, at the extreme, complete preservation in place with no mining.

Effective pollution abatement techniques will be implemented, including precautions for worker health and safety. Employee exposure to potentially hazardous substances will be minimized through engineering controls and adherence to work practice guidelines being prepared specifically for the Great Plains plant. Installed continuous monitors will be used to detect dangerous leaks, and industrial hygiene audits will be performed regularly around various pieces of equipment and potential sources of emissions. In addition, a comprehensive medical examination will be performed by a physician on all plant employees at least once each year.

In order to verify that all activities and processes incorporated within the plant design comply with all applicable Federal and State laws, regulations and permit stipulations, an environmental monitoring program will be implemented. The monitoring program will insure that timely corrective action will be taken on all environmental deficiencies. Numerous State and Federal agencies issue permits and licenses required to construct and operate the Great Plains facility. Strict standards are established. Precise monitoring will be required and data will be submitted for analysis by regulatory agencies. In addition to the environmental monitoring program which will be performed by the plant owner/operator, DOE is committed to an extended, comprehensive environmental health and safety analysis at the site, to collect environmental data that go beyond present regulatory compliance requirements.

Conclusion

The benefits derived from the Great Plains Gasification Project outweigh the potential adverse environmental impacts. No reasonably available project alternatives exist which would satisfy program goals. As a result of these evaluations, DOE has decided to proceed with its participation in the project.

Dated: November 19, 1980.

C. Worthington Bateman,

Under Secretary (Acting) U.S. Department of Energy.

[FR Doc. 80-36724 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Synthetic Fuels Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Synthetic Fuels Task Group of the Committee on Environmental Conservation will meet in December 1980. 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 Synthetic Fuels Task Group meeting follows:

The Synthetic Fuels Task Group will hold its second meeting on Tuesday, December 2, 1980, starting at 1 p.m., in the Conference Room of the National

Petroleum Council, 1625 K Street, NW., Washington, D.C.

The tentative agenda for the meeting follows:

1. Briefing by Department of Energy officials regarding DOE report, *Synthetic Fuels and the Environment.*

2. Review of November 6, 1980, meeting of the Coordinating Subcommittee.

3. Review of literature search conducted for the Task Group.

4. Discussion of preliminary review of the DOE report regarding coal gasification, coal liquefaction, oil shale and other synthetic fuels (biomass, urban wastes, alcohol fuels).

5. Review of the schedule for completion of the Task Group effort.

6. Discussion of any other matters properly brought before the Task Group.

The meeting is open to the public. The Chairman of the Synthetic Fuels Task Group 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 Synthetic Fuels Task Group 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 November 14, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations Resource Applications.

[FR Doc. 80-36727 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

Bonneville Power Administration

Northwestern Montana/North Idaho Support and Libby Integration Draft Supplement to the Final Fiscal Year 1980 Proposed Program; Environmental Impact Statement (EIS); Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of public meetings to be held to discuss and solicit comments on BPA's draft supplement to the Final Fiscal Year 1980 Proposed Program EIS on Northwestern Montana/North Idaho and Libby Integration. This supplement describes the environmental impacts of BPA's proposed removal of an existing 115-kV wood pole transmission line and replacement with a double-circuit 230-kV line. The route follows existing rights-of-way for 89 miles between Sandpoint, Idaho, and Libby Dam, Montana, and will be rerouted for 4 miles near Vermiculite Mountain. The proposed line crosses several floodplains and one wetland area. Wintering populations of bald eagles, and endangered species, along the Kootenai River may be affected. Assessments of these issues as well as surveys of cultural resources and geologic conditions have been completed. Mitigation measures have been suggested.

The public is invited to attend two public meetings and two open houses at the following locations:

Public Meetings: Tuesday, December 16, 1980, at the Federal Building, Division and Ontario Streets, in Sandpoint, Idaho, from 7–10 p.m.

Wednesday, December 17, 1980, at First National Bank, 504 Mineral Avenue, Libby, Montana, from 7–10 p.m.

Open Houses: Monday, December 15, 1980, at Jack's Club (upstairs), W. Kootenai Avenue, in Booners Ferry, Idaho, from 7–9 p.m.

Thursday, December 18, 1980, at United Methodist Church Fellowship Hall, 3rd and Kalispell, Troy, Montana, from 7–9 p.m.

BPA invites all interested parties to attend and welcomes comments to aid full evaluation of environmental factors relating to the proposed and alternative actions. All comments will be considered in the preparation of the final document. For those unable to attend the meetings, written comments will be accepted until the close of comment date, December 31, 1980.

Questions, written comments, and requests for copies of the draft EIS supplement should be addressed to either the Spokane Area Manager, Bonneville Power Administration, Room 561, U.S. Courthouse, W. 920 Riverside Avenue, Spokane, Washington 99201, telephone (509) 456–2500, or to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, telephone (503) 234–3361, extension 5137.

Dated: November 18, 1980.

Stanley E. Efferding,

Acting Administrator.

[FR Doc. 80-36725 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653–3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, DC on the 20th day of November, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders—Northeast District

Station	Address	Date	Violation amount	Cents per gallon in violation
Frank's Marina	34 South End Place, Freeport, N.Y. 11520	10-28-80	$2,778.06	14.3
Steven Frank Arco	1 Union Road, Spring Valley, N.Y. 10977	10-28-80	6,492.10	5.1

Proposed Remedial Order—Central District

Cedar Point, Inc	C. N. 5006, Sandusky, OH 44870	10-28-80	$9,569.70	8.1

Proposed Remedial Orders—Southwest District

Mayfield's Country Store	Juno Route, Ozona, TX 78943	10-28-80	$3,928.45	12.9

[FR Doc. 80-36722 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Marion Corp.; Action Taken and Opportunity To Comment 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 and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date is November 5, 1980; Comments by December 26, 1980.

ADDRESS: Send written comments to: James C. Easterday, District Manager of Enforcement, Southeast District, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367.

FOR FURTHER INFORMATION CONTACT: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2396.

SUPPLEMENTARY INFORMATION: On November 5, 1980 the Southeast District, Office of Enforcement of the ERA finalized a Consent Order with Marion Corporation, a Mobile, Alabama small independent refiner of petroleum products. Under 10 CFR Section 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. Because of the settlement negotiations involved in this case and the desire to conclude this matter expeditiously, the DOE has determined that it is in the public interest to make the Consent Order with Maion Corporation, effective when signed both by the person to whom it is issued and the DOE.

I. The Consent Order

Marion Corporation (Marion), located in Mobile, Alabama, is a small independent refiner, and is subject to the jurisdiction of the DOE with regard to prices charged in sales of covered products, pursuant to 10 CFR Section 212.83. To resolve certain civil actions which could be brought by the Office of Enforcement of the ERA as a result of its audit of Marion, the Office of Enforcement, ERA, and Marion entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to prices charged by Marion in sales of No. 2 diesel fuel, liquified petroleum gases, light straight run gasoline, JP–4 jet fuel and residual fuel oil. The products were covered under the Federal pricing regulations during the audit period of December 1, 1973 through April 30, 1974.

2. From the audit conducted during the above period, the Office of Enforcement considered numerous issues, including (a) determinations of Marion's classes of purchases; (b) calculations of Marion's May 1973 product costs, monthly increased costs and allocation of increased costs among and within classes of purchaser and product categories; (c) calculations of Marion's unrecouped cost increases and recoveries of increased costs; (d) calculations of Marion's maximum allowable selling prices and the prices actually charged by Marion for all products covered by the Consent Order; and (e) calculations and reports filed by Marion including but not limited to forms FEO.96 and P–110 pursuant to the applicable DOE regulations.

3. The Consent Order is concerned exclusively with the refund of $115,000.00 in settlement of any and all overcharges and interest which DOE would otherwise seek to assess concerning the products covered by the Consent Order during the above audit period.

4. Marion agrees to refund, in full settlement of any and all civil liability within the jurisdiction of the Department of Energy (DOE) in regard to actions that might be brought by the DOE arising out of the specified transactions, the sum of $115,000 within sixty (60) days of the effective date of this Consent Order. Refund shall be by certified check made payable to the United States Department of Energy and delivered to the Assistant Administrator for Enforcement, Economic Regulatory Administration. The Assistant Administrator for Enforcement, ERA, shall direct that these monies be deposited in a suitable account in order that the monies in the fund may be distributed in a just and equitable manner in accordance with applicable laws and regulations. In addition, Marion agrees to pay a $10,000 civil penalty within 60 days of the effective date of this Consent Order.

5. The provisions of 10 CFR Section 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Dispostion of Refunded Overcharges

In the Consent Order, Marion agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. through I.3., above, the sum of $115,000.00 within sixty (60) days of the effective date of the Consent Order. Refund methodology will be as specified in I.4., above. The amount submitted to the Assistant Administrator will be in the form of certified checks made payable to the U.S. Department of Energy and will be delivered to the Office of the Assistant Administrator for Enforcement, ERA. This submission will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refunded amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested

primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim as specified in A and B above, to James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Marion Consent Order."

Comments received by 4:30 p.m., local time December 26, 1980, will be considered. 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 Atlanta, Georgia on the 10th day of November 1980.

James C. Easterday,

District Manager of Enforcement.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-36723 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Beta Development Co.; Notice of 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: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: William Dorcheus, Director, Crude Oil Branch, Program Manager for Crude Producers, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3517.

SUPPLEMENTARY INFORMATION: On March 7, 1980, the Office of Enforcement of the ERA published notification in the Federal Register that it executed a Consent Order with Beta Development Company (Beta) of Farmington, New Mexico, on February 29, 1980, 45 FR 14917 March 7, 1980). 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 Beta pursuant to the Consent Order were requested to submit notice of their claims to 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 issued as signed.

Pursuant to the Consent Order, Beta, is refunding the sum of $128,000.00 plus interest by certified checks made payable to the United States Department of Energy within 15 months of the execution of the Consent Order. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution. The following persons submitted claims to the ERA:

Caribou Four Corners, Inc.

Defense Logistics Agency.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $128,000.00 or to 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 November 17, 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 remaining 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 18th day of November, 1980.

Robert Gerring,

Director, Program Operations Division.

[FR Doc. 36645 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 319]

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 18, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
-A A CO					RECEIVED: 10/31/80 JA: LA			
8104403	AO-3627	1707321343	103		JOHN WILLIAMS #1	MONROE	40.0	IMC PIPELINE CO
-ADOBE OIL & GAS CORPORATION					RECEIVED: 10/31/80 JA: LA			
8104439	AO-3667	1711320927	107		MACDONELL ESTATE NO 1	SOUTH LAKE ARTHUR	1800.0	
-AMERADA HESS CORPORATION					RECEIVED: 10/31/80 JA: LA			
8104458	AO-3686	1705721489	103		SOUTH COAST CORP NO 18	RACELAND	440.0	TRANSCONTINENTAL GAS
-AMOCO PRODUCTION CO					RECEIVED: 10/31/80 JA: LA			
8104433	AO-3661	1710121122	103		LAWS REALTY CO INC NO 75	CHARENTON	330.0	TEXAS GAS TRANSMISSI
8104366	AO-3592	1705721689	103		STATE LEASE 2374 NO 15	LAKE BOEUF	35.0	MONTEREY PIPELINE CO
-ANADARKO PRODUCTION COMPANY					RECEIVED: 10/31/80 JA: LA			
8104342	AO-3566	1704920113	102		J W CAPPS NO 1	EROS	300.0	TENNESSEE GAS PIPELI
-BASS ENTERPRISES PRODUCTION CO					RECEIVED: 10/31/80 JA: LA			
8104372	AO-3598	1706120194	102		CV RA SUA FELIX G LEGUIN #1	HICO KNOWLES	73.0	UNITED GAS PIPE LINE
8104374	AO-3600	1706120193	102		CV RA SUB J L SMITH A #2	HICO-KNOWLES	0.0	UNITED GAS PIPELINE
8104371	AO-3597	1706120196	102		CV RA SUC ETTA H CULVIN NO 3	HICO KNOWLES	455.0	UNITED GAS PIPE LINE
8104373	AO-3599	1706120195	102		CV RA SUD PAULINE DREWETT #1	HICO KNOWLES	490.0	UNITED GAS PIPE LINE
8104375	AO-3601	1706120234	102		CV RA SUE REX M TATUM NO 1	HICO-KNOWLES	90.0	UNITED GAS PIPE LINE
8104370	AO-3596	1706120226	102		CV RA SUF MATTIE A TATUM NO 1	HICO-KNOWLES	109.0	UNITED GAS PIPE LINE
-BAYOU PRODUCTION CO					RECEIVED: 10/31/80 JA: LA			
8104461	AO-3696	1701700000	103		ANISMAN #1 SER NO 165460	GREENWOOD WASKOM	36.0	
-BORDEN INC					RECEIVED: 10/31/80 JA: LA			
8104354	AO-3578	1707522661	102		DELACROIX CORP #1	DALCOUR FIELD	1174.0	SOUTHERN NATURAL GAS
8104455	AO-3683	1710121143	107		PLAN RA SUD J R HEINEN #1	BALDWIN FIELD	1013.0	LOUISIANA INTRASTATE
-CEKA GAS CORP					RECEIVED: 10/31/80 JA: LA			
8104337	AO-3561	1711121780	108		HSC NO 3	MONROE	5.7	INTERNATIONAL MINERA
8104338	AO-3562	1711121906	108		HSC NO 4	MONROE	5.7	INTERNATIONAL MINERA
-CHEVRON U S A INC					RECEIVED: 10/31/80 JA: LA			
8104457	AO-3685	1707720206	107		BOMER-BLANKS LUMBER CO #1	JUDGE DIGBY	1500.0	
8104459	AO-3687	1772520203	103		S L 1354 #28	MAIN PASS BLOCK 69	548.0	SOUTHERN NATURAL GAS
8104347	AO-3571	1708720180	102		S L 6651 NO 3	RIGOLETS	1898.0	
-COCKRELL CORPORATION					RECEIVED: 10/31/80 JA: LA			
8104362	AO-3588	1772120314	103		STATE LEASE 7873 NO 1	WILDCAT - SOUTH PASS BLO	900.0	
-CONOCO INC					RECEIVED: 10/31/80 JA: LA			
8104344	AO-3568	1709920805	103		CONOCO FEE A NO 27	ST MARTINVILLE	10.0	
8104345	AO-3569	1703920210	103		RENE MCDANIEL NO 3	VILLE PLATTE	180.0	LOUISIANA INTRASTATE
8104430	AO-3658	1701920895	103		10000 RA SUA G BAERGEN NO 1	EAST MOSS LAKE	0.0	
8104420	AO-3610	1701920895	103		10200 VU AB G BAERGEN NO 1	EAST MOSS LAKE	260.0	
-CROWN ZELLERBACH CORP					RECEIVED: 10/31/80 JA: LA			
8104463	AO-3697	1705921556	103		CZ FEE TRACT AD #1	LITTLE CREEK	82.1	TRUNKLINE GAS CO
-DAVIS-BOOKMAN OIL CO					RECEIVED: 10/31/80 JA: LA			
8104364	AO-3590	1702321447	103		CUTLER OIL & GAS CORP #1	TWIN ISLAND	47.4	LOUISIANA RESOURCES

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-EDWIN L COX					RECEIVED: 10/31/80 JAI LA			
810,406	AO-3625	1710922244	103		LL&E C NO 1	LAKE MATCH	180.0	COLUMBIA GAS TRANSMI
810,346	AO-3570	1709720576	103		SUSAN B GARDNER NO 1	SOUTH SHUTESTON	400.0	LOUISIANA INTRASTATE
-EXXON INC					RECEIVED: 10/31/80 JAI LA			
810,397	AO-3634	1711121824	103		M D GREEN NO 8	MONROE (6824)	7.8	TEXAS GAS TRANSMISSI
810,395	AO-3635	1711122289	103		L B KING NO 1	MONROE (6824)	8.7	TEXAS GAS TRANSMISSI
810,399	AO-3632	1711122217	103		VUA C W WHEELER NO 2	MONROE (6824)	8.7	TEXAS GAS TRANSMISSI
810,394	AO-3637	1711122490	103		VUA CLEVELAND WAYNE NO 1	MONROE (6824)	7.8	TEXAS GAS TRANSMISSI
810,398	AO-3633	1711122495	103		VUA G A DUGAS NO 2	MONROE (6824)	7.8	TEXAS GAS TRANSMISSI
810,396	AO-3636	1711122512	103		M C ADCOCK ESTATE NO 1	MONROE (6824)	8.1	TEXAS GAS TRANSMISSI
-EXXON CORPORATION					RECEIVED: 10/31/80 JAI LA			
810,407	AO-3624	1705721676	103		EXXON FEE B NO 23	BULLY CAMP	35.0	TENNESSEE GAS PIPELI
-FRANKS PETROLEUM INC ET AL					RECEIVED: 10/31/80 JAI LA			
810,359	AO-3584	1702720579	102		MOSS 6170 RA SUB R THURMAN #1-D	LISBON	104.0	ARKANSAS LOUISIANA G
-GAS TRANSPORTATION CORPORATION					RECEIVED: 10/31/80 JAI LA			
810,341	AO-3565	1711122094	108		DUMAS NO 1	MONROE	4.2	PETRO-LEWIS FUNDS IN
810,340	AO-3564	1711122099	108		GTC-B D NOLAN NO 1	MONROE	1.8	PETRO-LEWIS FUNDS IN
810,427	AO-3655	1707321394	103		GTC-MLG NO 1	MONROE GAS FIELD	8.0	MID-LOUISIANA GAS CO
810,382	AO-3649	1707321424	103		GTC-MLG NO 10	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,381	AO-3650	1707321425	103		GTC-MLG NO 11	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,380	AO-3651	1707321426	103		GTC-MLG NO 12	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,379	AO-3652	1707321433	103		GTC-MLG NO 13	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,378	AO-3653	1707321434	103		GTC-MLG NO 14	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,426	AO-3654	1707321435	103		GTC-MLG NO 15	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,390	AO-3641	1707321395	103		GTC-MLG NO 2	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,389	AO-3642	1707321411	103		GTC-MLG NO 3	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,388	AO-3643	1707321412	103		GTC-MLG NO 4	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,387	AO-3644	1707321413	103		GTC-MLG NO 5	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,386	AO-3645	1707321414	103		GTC-MLG NO 6	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,385	AO-3646	1707321416	103		GTC-MLG NO 7	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,384	AO-3647	1707321415	103		GTC-MLG NO 8	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,383	AO-3648	1707321423	103		GTC-MLG NO 9	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810,339	AO-3563	1711122145	108		TRIMBLE NO 1	MONROE	3.3	PETRO-LEWIS FUNDS IN
-GEORGE R RICHURMAN					RECEIVED: 10/31/80 JAI LA			
810,355	AO-3581	1703121227	103		NORRIS #2	SPIDER	120.0	LOUISIANA INTRASTATE
810,356	AO-3581	1703121203	103		YARBROUGH #1	SPIDER	300.0	LOUISIANA INTRASTATE
-GETTY OIL COMPANY					RECEIVED: 10/31/80 JAI LA			
810,363	AO-3589	1703120951	103		PACE B NO 3	LOGANSPORT	0.0	TENNESSEE GAS PIPELI
-GODFREY & RILEY					RECEIVED: 10/31/80 JAI LA			
810,472	AO-3706	1711121911	108		STELL NO 2	MONROE	15.0	MID LOUISIANA GAS CO
-GULF OIL CORPORATION					RECEIVED: 10/31/80 JAI LA			
810,434	AO-3662	1772720077	102		CHANDELEUR SOUND BLK 51 SL 7205 #1	CHANDELEUR SOUND BLOCK 5	1260.0	SOUTHERN NATURAL GAS
810,437	AO-3665	1772720103	102		CHANDELEUR SOUND BLK 51 SL 7205 #2	CHANDELEUR SOUND BLOCK 5	360.0	SOUTHERN NATURAL GAS
810,435	AO-3663	1772720104	102		CHANDELEUR SOUND BLK 51 SL 7205 #3	CHANELEUR SOUND BLOCK 51	900.0	SOUTHERN NATURAL GAS
810,436	AO-3664	1772720106	102		CHANDELEUR SOUND BLK 51 SL 7205 #4	CHANDELEUR SOUND BLOCK 5	900.0	SOUTHERN NATURAL GAS
*810,478	AO-3712	1707522574	103		GPLD A #170	GRAND BAY	180.0	UNITED GAS PIPELINE
810,409	AO-3622	1707522682	103		HARVEY ABERCROMBIE NO 18	WEST DELTA BLOCK 52	57.1	TENNESSEE GAS PIPELI
810,480	AO-3715	1707522492	103		S L 195 QQ #286-D	QUARANTINE BAY	730.0	UNITED GAS PIPELINE
-INTERNATIONAL OIL & GAS CORP					RECEIVED: 10/31/80 JAI LA			
810,361	AO-3587	1705721625	103		STATE LEASE 7594 #1	PLUM POINT	365.0	SOUTHERN NATURAL GAS
-J E HUGHES					RECEIVED: 10/31/80 JAI LA			
810,410	AO-3621	1701702771	108		GL SU B AMI SER #139430	GREENWOOD-WASKOM	0.0	UNITED GAS PIPE LINE

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-KERR-MCGEE CORPORATION					RECEIVED: 10/31/80 JA: LA			
8104358	AO-3583	1772620204	103		S L 1998 NO 41	BRETON SOUND BLOCK 20	239.0	SOUTHERN NATURAL GAS
8104412	AO-3619	1772620195	103		S L 2326 NO 40	BRETON SOUND BLOCK 20	8.0	SOUTHERN NATURAL GAS
-KILROY CO OF TEXAS					RECEIVED: 10/31/80 JA: LA			
8104447	AO-3675	1701723382	102		HOSS C RA SUC HUNTER NO 2	SHREVEPORT	365.0	ARKANSAS LOUISIANA G
8104479	AO-3714	1701722585	102		HOSS RA SUB BARROW NO 1	SHREVEPORT	100.0	ARKANSAS LOUISIANA G
-LANKFORD & NANCE					RECEIVED: 10/31/80 JA: LA			
8104376	AO-3602	1711122578	103		K D LANKFORD NO 2	MONROE GAS	14.0	TEXAS GAS TRANSMISSI
-MARATHON OIL COMPANY					RECEIVED: 10/31/80 JA: LA			
8104464	AO-3698	1711900907	108		CVSU HODGES HODGES ET AL #1	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
8104440	AO-3668	1711900840	108		CVSU HODGES LOGAN NO 1	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
-MAY PETROLEUM INC					RECEIVED: 10/31/80 JA: LA			
8104449	AO-3677	1703120691	103		BURFORD #1-D (157803)	BETHANY-LONGSTREET	216.0	ARKANSAS LOUISIANA G
8104448	AO-3676	1705520173	103		CAM E RA SUA M E MCCONNELL #2	DUSON	548.0	TRANSCONTINENTAL GAS
8104450	AO-3678	1703120706	103		GAMBLE A #1-D	BETHANY-LONGSTREET	420.0	ARKANSAS LOUISIANA G
-MIDWAY PRODUCTION CO VII					RECEIVED: 10/31/80 JA: LA			
8104442	AO-3670	1707321379	103		LAKE PARK #1	MONROE	0.5	PETRO-LEWIS CORP
8104443	AO-3671	1707321380	103		LAKE PARK #2	MONROE	0.5	PETRO-LEWIS CORP
8104401	AO-3630	1707321381	103		LAKE PARK NO 3	MONROE	0.5	PETRO-LEWIS CORP
8104402	AO-3629	1707321382	103		LAKE PARK NO 4	MONROE	0.5	PETRO-LEWIS CORP
8104444	AO-3672	1707321386	103		SUNSHINE #3	MONROE	0.5	PETRO-LEWIS CORP
8104441	AO-3669	1707321390	103		SUNSHINE #7	MONROE	0.5	PETRO-LEWIS CORP
8104404	AO-3628	1707321384	103		SUNSHINE NO 1	MONROE	0.5	PETRO-LEWIS CORP
8104400	AO-3631	1707321385	103		SUNSHINE NO 2	MONROE	0.5	PETRO-LEWIS CORP
-MULLINS & PRICHARD					RECEIVED: 10/31/80 JA: LA			
8104423	AO-3607	1707120023	103		L&N RAILROAD #1	LAKE ST CATHERINE	300.0	SOUTHERN NATURAL GAS
-NATOMAS NORTH AMERICA INC					RECEIVED: 10/31/80 JA: LA			
8104415	AO-3616	1710320019	102		STATE LEASE 7186 #1	WILDCAT	109.0	
-NORTHCOTT EXPLORATION CO INC					RECEIVED: 10/31/80 JA: LA			
8104460	AO-3688	1709920794	103		LUCIE MARTIN NO 1	BAYOU BOULLION	730.0	GAS GATHERING CORP
-NORTHEAST RESOURCES INC					RECEIVED: 10/31/80 JA: LA			
8104360	AO-3586	1701700000	103		CV RA SU 87 FRIERSON NO 1	ELM GROVE	275.0	J W OPERATING CO
-OIL COUNTRY MANAGEMENT INC ETAL					RECEIVED: 10/31/80 JA: LA			
8104365	AO-3591	1705721719	103		W ALTON JONES B NO 4	LAROSE	36.0	TENNESSEE GAS PIPELI
-PATRICK PETROLEUM CORP (MI)					RECEIVED: 10/31/80 JA: LA			
8104414	AO-3617	1705721542	103		SSBF N RB SU BOWIE LBR CO #13-D	SOUTH BAYOU BOEUF FIELD	1.0	LOUISIANA RESOURCES
8104462	AO-3689	1705721404	103		SSBF N RB SU BOWIE LBR CO NO 10	SOUTH BAYOU BOEUF FIELD	0.7	LOUISIANA RESOURCES
-PENNZOIL PRODUCING COMPANY					RECEIVED: 10/31/80 JA: LA			
8104418	AO-3613	1701521062	103		HOSS TP SU O SEC 24 NO 1 ALT	SLIGO	200.0	UNITED GAS PIPE LINE
8104417	AO-3614	1701521063	103		HOSS TP SU Q SEC 14 NO A-3 ALT	SLIGO	900.0	UNITED GAS PIPE LINE
8104419	AO-3612	1701521154	103		HOSS TP SU S SEC 19 NO 2 ALT	SLIGO	450.0	UNITED GAS PIPE LINE
-PETE CALDWELL DRLG CO INC					RECEIVED: 10/31/80 JA: LA			
8104350	AO-3576	1707321449	103		AC WHITE EST #5 #170323	MONROE GAS	17.0	MID LOUISIANA GAS CO
8104352	AO-3576	1707321450	103		AC WHITE EST #6 #170324	MONROE GAS	19.0	MID LOUISIANA GAS CO
8104351	AO-3576	1707321455	103		AC WHITE EST #7 #170362	MONROE GAS	18.0	MID LOUISIANA GAS CO
-PLACID OIL COMPANY					RECEIVED: 10/31/80 JA: LA			
8104422	AO-3608	1706920094	102		MARTIN LUMBER CO NO 1	DEMERY CREEK	108.0	UNITED GAS PIPE LINE
-PRIMOS PRODUCTION CO					RECEIVED: 10/31/80 JA: LA			
8104477	AO-3711	1707321341	103		PETRO-LEWIS BERNSTEIN #1	MONROE GAS	8.2	PETRO-LEWIS FUNDS IN
8104465	AO-3699	1711122497	103		PETRO-LEWIS HOLLIS ET AL #1	MONROE GAS	25.7	PETRO-LEWIS FUNDS IN
8104471	AO-3705	1711122387	103		PETRO-LEWIS PENNZOIL FEE 119 #2	MONROE	16.4	PETRO-LEWIS FUNDS IN
8104470	AO-3704	1711122388	103		PETRO-LEWIS PENNZOIL FEE 119 #3	MONROE GAS	14.4	PETRO-LEWIS FUNDS IN

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104469	A0-3703	1711122522	103		PETRO-LEWIS UNION PROD FEE 113 #4	MONROE GAS	14.4	PETRO-LEWIS FUNDS IN
8104468	A0-3702	1711122523	103		PETRO-LEWIS UNION PROD FEE 113 #5	MONROE GAS	15.4	PETRO-LEWIS FUNDS IN
8104467	A0-3701	1711122524	103		PETRO-LEWIS UNION PROD FEE 113 #6	MONROE GAS	15.4	PETRO-LEWIS FUNDS IN
8104466	A0-3700	1711122525	103		PETRO-LEWIS UNION PROD FEE 113 #7	MONROE GAS	10.3	PETRO-LEWIS FUNDS IN
-PRIMOS-PENNZOIL JV					RECEIVED: 10/31/80 JA: LA			
8104474	A0-3708	1711122704	103		FEE 101 #1	MONROE GAS	6.2	UNITED GAS PIPELINE
8104476	A0-3710	1711122665	103		JORDAN #1	MONROE GAS	12.3	UNITED GAS PIPELINE
8104475	A0-3709	1711122666	103		STRIPLING #3	MONROE GAS	18.5	UNITED GAS PIPELINE
-RELIANCE TR-JV					RECEIVED: 10/31/80 JA: LA			
8104473	A0-3707	1711122612	103		RELIANCE TR-JV E JOHNSON #1	MONROE	30.0	TEXAS GAS TRANSMISSI
-ROY M TEEL					RECEIVED: 10/31/80 JA: LA			
8104392	A0-3639	1707321289	103		UNION PRODUCING #10	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
8104393	A0-3638	1707321287	103		UNION PRODUCING #8	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
8104391	A0-3640	1707321290	103		UNION PRODUCING CO #11	MONROE GAS ROCK FIELD	20.1	IMC PIPELINE CO INC
-S TEEL					RECEIVED: 10/31/80 JA: LA			
8104348	A0-3572	1707321050	108		SHO VAN #1	MONROE GAS ROCK	24.6	UNITED GAS PIPE LINE
-SAMSON RESOURCES COMPANY					RECEIVED: 10/31/80 JA: LA			
8104424	A0-3606	1701920808	102		NICKERSON FEE NO 1	GILLIS-ENGLISH BAYOU	250.0	UNITED GAS PIPELINE
8104424	A0-3606	1701920808	103		NICKERSON FEE NO 1	GILLIS-ENGLISH BAYOU	250.0	UNITED GAS PIPELINE
-SANCHEZ-O'BRIEN DRILLING PART 1978					RECEIVED: 10/31/80 JA: LA			
8104454	A0-3682	1700320162	103		G W JENKINS ESTATE NO 1	NORTH ELTON	0.0	TEXAS GAS TRANSMISSI
-SCOGIN EXPLORATION INC					RECEIVED: 10/31/80 JA: LA			
8104453	A0-3681	1701723360	103		SLATTERY NO 1	SHREVEPORT	214.0	
-SHELL OIL CO					RECEIVED: 10/31/80 JA: LA			
8104452	A0-3680	1770920223	103		EI 18 82 RA SU SL 1536 NO 30	EUGENE ISLAND BLOCK 18	4.4	TENNESSEE GAS PIPELI
8104425	A0-3605	1706920129	102		SHELL-CRYSTAL-EVANS ET AL NO 2	ROBELINE	1000.0	
8104377	A0-3604	1706920143	102		SHELL-CRYSTAL-G W DOOLITTLE #1	ROBELINE (PROPOSED)	1000.0	
8104343	A0-3567	1709920697	103		WLVE H4 RA SU H BURDIN #20	WEST LAKE VERRET	10.0	UNITED GAS PIPE LINE
-SIGNAL PETROLEUM					RECEIVED: 10/31/80 JA: LA			
8104369	A0-3595	1707322628	103		E COCKRELL JR ET AL #138	LAKE WASHINGTON	1100.0	SOUTHERN NATURAL GAS
-SOUTH LOUISIANA PRODUCTION CO INC					RECEIVED: 10/31/80 JA: LA			
8104353	A0-3577	1703320067	107		17600 TUSC RA SUE CRUMHOLT #1	IRENE	0.0	TRANSCONTINENTAL GAS
-SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/31/80 JA: LA			
8104411	A0-3620	1700120800	103		E W FREELAND NO 3	EGAN	1277.5	TEXAS EASTERN TRANSM
8104421	A0-3609	1701120381	103		LUTCHER-MOORE LUMBER CO NO 12	SHOATS CREEK	40.0	TRUNKLINE GAS CO
-TEEL 79 A					RECEIVED: 10/31/80 JA: LA			
8104336	A0-3560	1707321241	103		NACHTRIEB #A8	MONROE GAS ROCK FIELD	6.9	IMC PIPELINE CO INC
-TENNECO OIL COMPANY					RECEIVED: 10/31/80 JA: LA			
8104429	A0-3657	1703121097	103		MOSS SUT SAMMIE RAILEY NO 1	LOGANSPORT	125.0	
8104438	A0-3666	1710922304	103		TENNECO FEE NO 7	EAST LAKE DECADE	1000.0	
-TEXACO INC					RECEIVED: 10/31/80 JA: LA			
8104451	A0-3679	1704520578	103		RIS 10000 A B RD SU S/L 340 NO 191	RABBIT ISLAND	2555.0	KAISER ALUMINUM & CH
8104431	A0-3659	1770720074	103		S L 340 MOUND POINT NO 49	MOUND POINT	0.0	TEXAS GAS TRANSMISSI
8104432	A0-3660	1770720075	103		SL 340 MOUND POINT NO 53	MOUND POINT	2752.0	NATURAL GAS PIPELINE
8104405	A0-3626	1770720096	103		SL 340 MOUND POINT NO 62	MOUND POINT	855.0	TEXAS GAS TRANSMISSI
8104408	A0-3623	1770720097	103		SL 340 MOUND POINT NO 76	MOUND POINT	2430.0	TEXAS GAS TRANSMISSI
-TEXAS OIL & GAS CORP					RECEIVED: 10/31/80 JA: LA			
8104428	A0-3656	1703121259	103		MOSS RA SU16 GRIFFITH C #2	BETHANY-LONGSTREET	700.0	ARKANSAS LOUISIANA G
8104357	A0-3582	1703121285	103		LEE E #1	BETHANY-LONGSTREET	200.0	ARKANSAS LOUISIANA G
-TEXOMA PRODUCTION CO					RECEIVED: 10/31/80 JA: LA			
8104456	A0-3684	1709920699	107		WILLIAMS H NO 1	WILDCAT	1775.0	
-TOCE OIL COMPANY INC					RECEIVED: 10/31/80 JA: LA			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104367	AO-3593	1704520625	103		HALL-GONSOULIN NO 1	FAUSSE POINTE FIELD	438.0	SOUTHERN NATURAL GAS
8104368	AO-3594	1707720211	103		LOTTIE LAND & DEVEL CO NO 2	LOTTIE FIELD	365.0	
-UNION OIL COMPANY OF CALIF					RECEIVED: 10/31/80 JA: LA			
8104413	AO-3618	1710922258	103		8700 RB SU F A J ELLENDER NO 1	HOUMA	1000.0	UNITED GAS PIPE LINE
-VIKING RESOURCES					RECEIVED: 10/31/80 JA: LA			
8104349	AO-3573	1711122561	103		OLIN NO 2	MONROE	16.0	PETROLEWIS FUNDS INC
-WAGNER & BROWN					RECEIVED: 10/31/80 JA: LA			
8104446	AO-3674	1707720204	107		E W JEWELL NO 1	MOORE-SAMS	3500.0	
8104445	AO-3673	1707720226	107		J E JUMONVILLE SR NO 1	MOORE-SAMS	3500.0	
-WESTALL OIL & GAS CO					RECEIVED: 10/31/80 JA: LA			
8104416	AO-3615	1705120503	103		CIB OP 1 SUA 2914 SD SN 166234	W LAKE PONCHARTRAIN BLK	650.0	SHELL OIL CO
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** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM								
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-AMOCO PRODUCTION CO					RECEIVED: 11/03/80 JA: NM 4			
8104551	NM-1096-80	3004523346	103		A L ELLIOTT C #4	BASIN DAKOTA	34.0	EL PASO NATURAL GAS
8104549	NM-1094-80	3004524008	103		BRUINGTON GAS COM B #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104534	NM-1079-80	3004507567	108		DAY GAS COM NO 1	BLANCO - DAKOTA	21.0	SOUTHERN UNION GATHE
8104533	NM-1078-80	3004506985	108		FRED FEASEL B NO 1	FULCHER KUTZ-PICTURED CL	20.0	SOUTHERN UNION GATHE
8104550	NM 1095-80	3004523897	103		GALLEGOS CANYON UNIT #207E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104584	NM-1092-80	3004523898	103		GALLEGOS CANYON UNIT #208E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104532	NM-1077-80	3004520656	108		GALLEGOS CANYON UNIT NO 264	BASIN DAKOTA	14.0	EL PASO NATURAL GAS
8104582	NM-1153-80	3002526076	103		GILLULLY A FEDERAL #16	EUNICE MONUMENT (GSA)	5.1	PHILLIPS PETROLEUM C
8104531	NM-1076-80	3004506745	108		HOUCK GAS COM C NO 1 (2ND FILING)	BASIN-DAKOTA	13.0	EL PASO NATURAL GAS
8104530	NM-1075-80	3003920188	108		JICARILLA APACHE 102 NO 15	BLANCO-MESAVERDE	10.0	GAS COMPANY OF NEW M
8104529	NM-1074-80	3003905977	108		JICARILLA CONTRACT 148 NO 5	SOUTH BLANCO-PICTURED CL	20.0	NORTHWEST PIPELINE C
8104512	NM-1050-80	3003922090	103		JICARILLA CONTRACT 155 #12E	BASIN DAKOTA	91.0	NORTHWEST PIPELINE C
*8104514	NM-1052-80	3003922173	103		JICARILLA GAS COM 35 A #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
*8104513	NM-1051-80	3003922172	103		JICARILLA GAS COM 35 B #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104528	NM-1073-80	3004320035	108		JICARILLA TRIBAL 360 NO 2	BALLARD-PICTURED CLIFFS	5.0	EL PASO NATURAL GAS
8104563	NM-1117-80	3003905525	108		JICARILLA 35-A GAS COM NO 1	BASIN-DAKOTA	20.0	EL PASO NATURAL GAS
8104548	NM-1093-80	3004524007	103		MARSHOW GAS COM #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104491	NM-0767-80	3002526008	103		NELLIS FEDERAL B GAS COM #1	BUFFALO PENN MORROW	133.8	GAS CO OF NEW MEXICO
8104525	NM-1067-80	3004510387	108		STANOLIND A NO 1 (2ND FILING)	BLANCO-MESAVERDE	18.0	EL PASO NATURAL GAS
-ARCO OIL AND GAS COMPANY					RECEIVED: 11/03/80 JA: NM 4			
8104566	NM-1124-80	3004524125	103		KRAUSE WN FEDERAL 6E	BASIN DAKOTA	118.0	NORTHWEST PIPELINE C
8104565	NM-1123-80	3004524277	103		SCHLOSSER WN FEDERAL 1E	BASIN DAKOTA	213.0	EL PASO NATURAL GAS
8104492	NM-0831-80	3004524120	103		SCHLOSSER WN FEDERAL 3E	BASIN DAKOTA	146.0	NORTHWEST PIPELINE C
8104567	NM-1125-80	3004524228	103		SCHLOSSER WN FEDERAL 7E	BASIN DAKOTA	205.0	NORTHWEST PIPELINE C
-BOLIN OIL COMPANY					RECEIVED: 11/03/80 JA: NM 4			
8104483	NM-5051-79B	3003922134	103		CANDADO #23A (BLANCO MV)	BLANCO MV	0.0	EL PASO NATURAL GAS
8104482	NM-5051-79A	3003922134	103		CANDADO #23A (OTERO CHACRA)	OTERO CHACRA	0.0	EL PASO NATURAL GAS
-CONOCO INC					RECEIVED: 11/03/80 JA: NM 4			
8104578	NM-1146-80	3003921982	103		AXI APACHE N NO 16A	AXI APACHE AREA	931.0	GAS CO OF NEW MEXICO
8104554	NM-1101-80	3002526412	103		MEYER B-31A NO 4	NEW MEXICO FEDERAL UNIT	15.0	PHILLIPS PETROLEUM C
8104494	NM 0934-80	3002526745	103		SEMU EUMONT NO 109	NEW MEXICO FEDERAL UNIT	114.0	EL PASO NATURAL GAS
8104555	NM-1102-80	3002526746	103		SEMU EUMONT NO 110	NEW MEXICO FEDERAL UNIT	118.0	WARREN PETROLEUM CO
8104556	NM-1103-80	3002526715	103		SEMU EUMONT NO 111	NEW MEXICO FEDERAL UNIT	97.0	WARREN PETROLEUM CO
8104493	NM 0933-80	3002526714	103		SEMU EUMONT NO 117	NEW MEXICO FEDERAL UNIT	154.0	EL PASO NATURAL GAS
8104558	NM-1104-80B	3002526204	103		WARREN UNIT NO 62 (BLINEBRY)	NEW MEXICO FEDERAL UNIT	21.5	WARREN PETROLEUM CO
8104557	NM-1104-80A	3002526204	103		WARREN UNIT NO 62 (TUBB)	NEW MEXICO FEDERAL UNIT	50.4	WARREN PETROLEUM CO
8104579	NM-1147-80	3002526762	103		WARREN UNIT NO 83	NEW MEXICO FEDERAL UNIT	4.0	WARREN PETROLEUM CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
•CONSOLIDATED OIL & GAS INC					RECEIVED: 11/03/80 JA: NM 4			
8104535	NM-1080-80	3004524148	103		SENTER 1-M (DAKOTA)	BASIN-DAKOTA	0,0	SOUTHERN UNION GATHE
8104536	NM-1081-80	3004524148	103		SENTER 1-M (MV)	BLANCO-MESAVERDE	0,0	SOUTHERN UNION GATHE
8104537	NM-1082-80	3004523874	103		SOUTHERN UNION 1-M	BASIN DAKOTA	0,0	SOUTHERN UNION GATHE
8104553	NM-1099-80	3004523874	103		SOUTHERN UNION 1-M	BLANCO-MESAVERDE	0,0	SOUTHERN UNION GATHE
					RECEIVED: 11/03/80 JA: NM 4			
•EL PASO EXPLORATION CO					JICARILLA 119 N #12	TAPACITO - PICTURED CLIF	20,0	NORTHWEST PIPELINE C
8104509	NM-1046-80	3003906725	108		JICARILLA 120 C #15	SOUTH BLANCO - PICTURED	21,0	NORTHWEST PIPELINE C
8104508	NM-1045-80	3003906226	108					
					RECEIVED: 11/03/80 JA: NM 4			
•EL PASO NATURAL GAS COMPANY					ATLANTIC C #6A (MV)	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
8104542	NM-1087-80A	3004523861	103		ATLANTIC C #6A (PC)	BLANCO PICTURED CLIFFS	70,0	EL PASO NATURAL GAS
8104543	NM-1087-80B	3004523861	103		HUERFANO UNIT #186	BASIN-DAKOTA GAS	18,0	EL PASO NATURAL GAS
*8104503	NM-1031-80	3004520531	108		HUGHES #20	BLANCO-PICTURED CLIFFS G	21,0	EL PASO NATURAL GAS
8104504	NM-1032-80	3004521038	108		JICARILLA C #12	BLANCO SOUTH - PICTURED	21,0	EL PASO NATURAL GAS
8104506	NM1041-80	3003921218	108		JICARILLA J #4	SOUTH-BLANCO - PICTURED	20,0	EL PASO NATURAL GAS
8104507	NM-1043-80	3003906416	108		LACKEY B #16	BASIN - DAKOTA	15,0	EL PASO NATURAL GAS
8104505	NM-1035-80	3004507349	108		RUSSELL #4A	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
8104583	NM-1088-80	3004523702	103		SAN JUAN 27-4 UNIT #120 (MV)	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8104544	NM-1089-80A	3003922122	103		SAN JUAN 27-4 UNIT #120 (PC)	TAPACITO PICTURED CLIFFS	70,0	EL PASO NATURAL GAS
8104545	NM-1089-80B	3003922122	103		SAN JUAN 27-4 UNIT #132 (DAKOTA)	BASIN DAKOTA	70,0	EL PASO NATURAL GAS
8104573	NM-1133-80B	3003921005	103		SAN JUAN 27-4 UNIT #132 (MV)	BLANCO MESAVERDE	250,0	EL PASO NATURAL GAS
8104572	NM-1133-80A	3003921005	103		SAN JUAN 27-5 UNIT #21A (MV)	BLANCO MESAVERDE	150,0	EL PASO NATURAL GAS
8104540	NM-1086-80A	3003921882	103		SAN JUAN 27-5 UNIT #21A (PC)	TAPACITO PICTURED CLIFFS	50,0	EL PASO NATURAL GAS
8104541	NM-1086-80B	3003921882	103		SAN JUAN 27-5 UNIT #51 MV & PC	SOUTH BLANCO-PICTURED CL	19,8	EL PASO NATURAL GAS
*8104486	NM-0442-80	3003906888	108		SAN JUAN 28-6 UNIT #22A (MV)	BLANCO MESAVERDE	50,0	EL PASO NATURAL GAS
8104570	NM-1132-80A	3003922299	103		SAN JUAN 28-6 UNIT #22A (PC)	BLANCO SOUTH PICTURED CL	70,0	EL PASO NATURAL GAS
8104571	NM-1132-80B	3003922299	103		SAN JUAN 28-7 UNIT #32A (MV)	BLANCO MESAVERDE	200,0	EL PASO NATURAL GAS
8104538	NM-1085-80A	3003922240	103		SAN JUAN 28-7 UNIT #32A (PC)	BLANCO SOUTH PICTURED CL	50,0	EL PASO NATURAL GAS
8104539	NM-1085-80B	3003922240	103		SAN JUAN 28-7 UNIT #8A (MV)	BLANCO MESAVERDE	200,0	EL PASO NATURAL GAS
8104546	NM-1090-80A	3003922209	103		SAN JUAN 28-7 UNIT #8A (PC)	BLANCO PICTURED CLIFFS	50,0	EL PASO NATURAL GAS
8104547	NM-1090-80B	3003922209	103		STOREY B #7	AZTEC PICTURED CLIFFS GA	20,8	EL PASO NATURAL GAS
8104481	NM-0006 80ER	3004521288	108		TAPP #2	BLANCO - MESAVERDE GAS	20,0	EL PASO NATURAL GAS
8104502	NM 1029-80	3004507461	108					
					RECEIVED: 11/03/80 JA: NM 4			
•GULF OIL CORPORATION					CARDENAS FEDERAL COM NO 1	NORTH BURTON FLAT MORROW	0,0	EL PASO NATURAL GAS
8104526	NM-1070-80	3001522406	103		FEDERAL COM 4 NO 1	NORTH LUSK MORROW	0,0	EL PASO NATURAL GAS
8104527	NM-1071-80	3002526699	103					
					RECEIVED: 11/03/80 JA: NM 4			
•H K KEESEE					CINCO DIABLOS #1	BALLARD PICTURED - CLIFF	4,0	EL PASO NATURAL GAS
8104510	NM-1047-80	3004300000	108		CINCO DIABLOS #11	BALLARD PICTURED CLIFFS	12,0	EL PASO NATURAL GAS
8104511	NM-1048-80	3004300000	108					
					RECEIVED: 11/03/80 JA: NM 4			
•HANSON OIL CORPORATION					GINSBERG FEDERAL NO 15	SHUGART NE NE SEC 35-T18	10,2	PHILLIPS PETROLEUM C
8104552	NM-1098-80	3001523073	103					
					RECEIVED: 11/03/80 JA: NM 4			
•HNG OIL COMPANY					WILSON 21 FEDERAL #3 NM23199	COMANCHE STATELINE TANSI	80,0	EL PASO NATURAL GAS
8104562	NM-1110-80	3002526133	102		WILSON 21 FEDERAL #4 NM 23199	COMANCHE STATELINE TANSI	46,0	EL PASO NATURAL GAS
8104561	NM-1109-80	3002526134	102					
					RECEIVED: 11/03/80 JA: NM 4			
•HOLLY ENERGY INC					CANADIAN KENWOOD FED NO 1	UNDES NORTH SHUGART MORR	700,0	NORTHERN NATURAL GAS
8104501	NM-0981-80	3001523069	103					
					RECEIVED: 11/03/80 JA: NM 4			
•HUSKY OIL COMPANY					BOLACK D #3-E	BASIN DAKOTA	104,0	EL PASO NATURAL GAS
8104498	NM-0959-80	3004524401	103		SCHWERDTFEGER D #3-E	BASIN DAKOTA	104,0	EL PASO NATURAL GAS
8104499	NM-0960-80	3004524238	103					
					RECEIVED: 11/03/80 JA: NM 4			
•J GREGORY MERRION&ROBERT L BAYLESS					EAST LINDRITH #1	SO BLANCO PIC CLIFFS	24,0	NORTHWEST PIPELINE C
8104580	NM-1148-80	3003922021	103		EAST LINDRITH #3	SO BLANCO PIC CLIFFS	30,0	NORTHWEST PIPELINE C
8104581	NM-1149-80	3003922023	103					
					RECEIVED: 11/03/80 JA: NM 4			
•KEN BLACKFORD					37-B #1-R LN-09-000037-B(TR 82)	BALLARD PICTURED CLIFFS	6,0	EL PASO NATURAL GAS
8104485	NM-0153-80	3003921737	108					

JD NO	JA DKT	API NO	SEC	D	WELL NAME	RECEIVED			
*MARATHON OIL COMPANY									
8104569	NM-1128-80	3001523195	103		MARTINEZ FEDERAL 31 #1	RECEIVED:	11/03/80	JA: NM	4
*MESA PETROLEUM									
8104500	NM0977-80	3003902211	103		SOUTH BLANCO FEDERAL 1-6	RECEIVED:	11/03/80	JA: NM	4
*MOBIL PRDG TEXAS & NEW MEXICO INC									
8104574	NM-1135-80	3003906492	108		JICARILLA D NO 2	RECEIVED:	11/03/80	JA: NM	4
8104496	NM-0950-80	3003922329	103		JILLSON FEDERAL NO 4	RECEIVED:	11/03/80	JA: NM	4
*PIONEER PRODUCTION CORPORATION									
*8104489	NM-0658-80	3004508470	103		COOPER #1E	RECEIVED:	11/03/80	JA: NM	4
*8104487	NM 656-80	3004508094	103		MAXEY #1E				
*8104488	NM 0657-80	3004507504	103		PHILLIPS #1E				
*8104490	NM 659-80	3004508220	103		REID #1E				
*R & G DRILLING CO C/O WALSH ENG									
8104484	NM-0030-80	3004523198	108		KRAUSE NO 11-A	RECEIVED:	11/03/80	JA: NM	4
*READING & BATES PETROLEUM CO									
8104497	NM-0958-80	3003905489	103		#17-1 FEDERAL	RECEIVED:	11/03/80	JA: NM	4
*SOUTHLAND ROYALTY CO									
8104575	NM-1141-80	3003921038	108		ARIZONA JICARILLA B #6				
8104520	NM-1062-80	3001523266	103		EMPIRE FEDERAL A COM #1				
8104519	NM-1061-80	3001523290	103		EMPIRE FEDERAL 34 COM #1				
8104576	NM-1142-80	3004522704	108		GRENIER A #7				
8104577	NM 1143-80	3004500000	108		HANKS #9				
8104521	NM-1063-80A	3004524147	103		RICHARDSON #9E (DAKOTA)				
8104522	NM 1063-80B	3004524147	103		RICHARDSON #9E (FRUITLAND)				
8104564	NM-1118-80	3004566440	108		WHITLEY #7				
*SUN OIL COMPANY (DELAWARE)						RECEIVED:	11/03/80	JA: NM	4
8104495	NM-0940-80	3001500000	108		MARY DUDD A NO 2-2				
*TENNECO OIL COMPANY						RECEIVED:	11/03/80	JA: NM	4
8104516	NM-1057-80	3004513196	108		FLORANCE #79				
8104515	NM-1056-80	3004511367	108		FLORANCE #84				
8104518	NM-1060-80	3004511679	108		MICHENER #1				
8104523	NM-1064-80	3004520065	108		MOORE #7				
8104517	NM-1058-80	3004511826	108		MOORE COM #1				
8104524	NM-1065-80	3004511790	108		RIDDLE #7				
*YATES PETROLEUM CORPORATION						RECEIVED:	11/03/80	JA: NM	4
8104559	NM-1105-80	3001523145	103		ALLISON CQ FEDERAL NO 5				
8104560	NM 1106-80	3001523211	103		ALLISON CQ FEDERAL NO 6				
8104568	NM-1127-80	3000560681	102		TECKLA MD FEDERAL NO 2				

OTHER PURCHASERS VOLUME NO 1319

8104478	TEXAS EASTERN TRANSMISSION CORP
8104486	NORTHWEST P L CORP
8104487	EL PASO NATURAL GAS CO
8104488	EL PASO NATURAL GAS CO
8104489	EL PASO NATURAL GAS CO
8104490	EL PASO NATURAL GAS CO
8104503	NORTHWEST P L CORP
8104513	NORTHWEST P L CORP
8104514	NORTHWEST P L CORP

BILLING CODE 6450-85-C

FIELD NAME	PROD	PURCHASER
TO BE DESIGNATED (BONE S	73,0	
LYBROOK	36,0	GAS CO OF NEW MEXICO
BLANCO MV/GAVALIN PC	15,3	NORTHWEST PIPELINE C
WEST LINDRITH GALLUP	11,0	NORTHWEST PIPELINE C
BASIN DAKOTA	67,7	PIONEER NATURAL GAS
BASIN DAKOTA	67,7	PIONEER NATURAL GAS
BASIN DAKOTA	67,7	PIONEER NATURAL GAS
BASIN DAKOTA	67,7	PIONEER NATURAL GAS
KUTZ FARMINGTON	2,0	EL PASO NATURAL GAS
CHACON-DAKOTA ASSOCIATED	36,0	EL PASO NATURAL GAS
SOUTH BLANCO PICTURED CL	15,0	GAS CO OF NEW MEXICO
	75,0	NORTHERN NATURAL GAS
	80,0	NORTHERN NATURAL GAS
AZTEC PICTURED CLIFFS	18,6	SOUTHERN UNION GATHE
SOUTH BLANCO PICTURED CL	8,0	SOUTHERN UNION GATHE
BASIN	70,0	SOUTHERN UNION GATHE
	60,0	SOUTHERN UNION GATHE
BASIN	12,0	SOUTHERN UNION GATHE
GRAYBURG JACKSON QUEEN-G	1,0	PHILLIPS PETROLEUM C
BLANCO PICTURED CLIFFS	0,0	EL PASO NATURAL GAS
BLANCO PICTURED CLIFFS	0,0	EL PASO NATURAL GAS
BASIN DAKOTA	0,0	NORTHWEST PIPELINE C
BASIN DAKOTA	0,0	EL PASO NATURAL GAS
BASIN DAKOTA	0,0	NORTHWEST PIPELINE C
BLANCO PICTURED CLIFFS	0,0	EL PASO NATURAL GAS
BOYD MORROW	0,0	TRANSWESTERN PIPELIN
UNDESIGNATED YESO	0,0	TRANSWESTERN PIPELIN
WILDCAT	0,0	TRANSWESTERN PIPELIN

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 within fifteen (15) days after the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36617 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-86-000]

Alabama Power Co.; Notice of Filing

November 18, 1980.

Take notice that on October 30, 1980, Alabama Power Company (Alabama) tendered for filing a revised Informational Schedule to the Transmission Service Agreement (Agreement) dated August 11, 1980 between Alabama and Tennessee Valley Authority (TVA). The revised Informational Schedule shows revised charges for transmission service under Section 3.2 of the Agreement, which result from operation of the formulary rate contained in Exhibit A of the subject Agreement.

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 and 1.10). All such petitions or protests should be filed on or before December 3, 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. 80-36635 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-319-002]

Consolidated Gas Supply Corp.; Petition To Amend

November 18, 1980.

Take notice that on October 31, 1980, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-319-002 a petition to amend the order issued November 21, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional alternate delivery point for the sale of natural gas to Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner states that on November 21, 1979, it was authorized to initiate a limited term sale of up to 100,000 dekatherms (dt) equivalent per day of surplus natural gas to Texas Gas which gas was to be delivered to Texas Gas at the northern terminus of Blue Water facilities near Egan, Louisiana, and at the northern terminus of High Island Offshore System (HIOS) at West Cameron Block 167, offshore Louisiana. Additionally, Petitioner states that its agreement with Texas Gas provided for an alternate point of delivery at the northern terminus of U-T Offshore System near Cameron Meadows in Cameron Parish, Louisiana, which would be used in the event that Texas Gas could not accept up to 40,000 dt equivalent per day tendered at the HIOS delivery point.

Petitioner asserts that due to capacity limitations Texas Gas has been unable to accept the full quantities of natural gas tendered by Petitioner at West Cameron Block 167 or at the alternate point of delivery at Cameron Meadows.

Petitioner further asserts that in order to cope with this delivery problem, it and Texas Gas by agreement dated May 15, 1980, amended their May 17, 1979, sales agreement to provide for an additional point of delivery at the existing interconnection between Transcontinental Gas Pipe Line Corporation's Southwest Louisiana lateral and its main line located in Calcasieu Parish, Louisiana.

Accordingly, Petitioner requests the Commission to amend the November 21, 1979, order so as to include the above mentioned additional delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 9, 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. 80-36636 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-716]

Indiana and Michigan Electric Co.; Notice of Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 3, 1980, the Indiana and Michigan Electric Company submitted for filing a revised cost of service and revised rates pursuant to Commission Opinion No. 79.

Any person desiring to be heard or to protest said filing should file a 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 and 1.10). All such protests should be filed on or before December 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36625 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-111-000]

Kansas City Power & Light Co.; Notice of Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 10, 1980, Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Wholesale Firm Power Contract, dated October 21, 1980, between KCPL and the City of Higginsville, Missouri. The Contract terminates the Municipal Wholesale Firm Power Contract dated January 28, 1975, as supplemented May 3, 1976, KCPL's Rate Schedule FERC No. 72, and provides for rates and charges for wholesale firm power service by KCPL to the City of Higginsville. KCPL requests an effective date of November 1, 1980, for this filing.

KCPL also tendered for filing Service Schedule MWFP-2 for Wholesale Firm Power Service (Municipal Utilities) under the Municipal Wholesale Firm Power Contract, dated October 21, 1980. This Service Schedule updates the rate for Wholesale Firm Power Service to the level accepted for filing by the Commission in Docket No. ER80-450. KCPL requests the same effective date as ordered by the Commission for rates for similar service in Docket No. ER80-450, presently January 6, 1981, subject to refund.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously submitted by KCPL to the Federal Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, 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 and 1.10). All such petitions or protests should be filed on or before December 4, 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. 80-36638 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-27-001]

Kansas-Nebraska Natural Gas Co., Inc.; Petition To Amend

November 18, 1980.

Take notice that on October 27, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP75-27-001 a petition to amend the order issued September 26, 1975 [1], in Docket Nos. CP75-1, *et al.* (CP75-27) pursuant to Section 7(c) of the Natural Gas Act so as to authroize the expansion of the area of interest; the addition of a new new balancing point; and the filing on an annual basis of additions or deletions of delivery points and/or balancing points under a gas exchange agreement dated June 17, 1974, among El Paso Natural Gas Company (El Paso), Panhandle Eastern Pipe Line Company (Panhandle) and Petitioner, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on September 26, 1975, it was authorized to exchange gas with El Paso in specified portions of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas, in accordance with a gas exchange agreement dated June 17, 1974. It is stated that Petitioner was also authorized to establish additional delivery points from time to time.

Petitioner proposes to add an additional balancing point in Roger Mills County, Oklahoma, to expand the area of interest covered by the gas exchange agreement, to request blanket authority to delete delivery points and to add and delete balancing points from time to time, and to file an annual tariff filing showing the addition or deletion of delivery points or balancing points. The area of interest would be expanded to include all of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas, rather than specified portions thereof, it is asserted.

Petitioner states that under the September 26, 1975, order, the parties are to correct any imbalance within 30 days. However, it is asserted that because the parties have experienced increasing difficulty in meeting this requirement, the proposed additional balance point was added. It is further asserted that inasmuch as the gathering systems of both El Paso and Petitioner are already connected to the well, no additional facilities would be required.

It is further stated that the September 26, 1975, order limits the scope of the exchange of natural gas to the specified geographical areas of interest although recently Petitioner asserts that it has been advised by El Paso that El Paso has obtained the right to purchase gas from a well, the Black Kettle #1A, located outside of the area of interest. Accordingly, in order that the Black Kettle #1A as well as other wells located in Roger Mills County, Oklahoma, or Hemphill or Wheeler Counties, Texas, in which the parties may obtain an interest but which are located outside the parameters of the current area of interest would be included, Petitioner proposes to expand the area of interest.

Petitioner asserts that since commencement of the stated exchange agreement, numerous new delivery points have been added, thus necessitating the filing of numerous tariff changes. To facilitate the expeditious addition of new delivery points, it has proposed herein to file with the Commission on or before January 31 of each year pursuant to Part 154 of the Commission's Regulations a tariff filing showing the addition or deletion of delivery points under the agreement.

Petitioner further requests blanket authorization to add and delete such balancing points as may be required to keep the volumes of exchange gas in balance during the term of the arrangement and to file such additions and deletions with its annual tariff filing.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 8, 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 National 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 participate as a party in any hearing therein must file a petition to intervene

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

in accordance with the Commission's Rule.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36639 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-498-001]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

November 18, 1980.

Take notice that on October 28, 1980, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-498-001 a petition to amend the order issued August 22, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of 14.2 miles of pipeline loop in Michigan in lieu of 9.4 miles of pipeline looping, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner states that on August 22, 1980, it was authorized, *inter alia*, to install two segments of 42-inch O.D. pipeline loop with appurtenances located in Van Buren and Ottawa Counties, Michigan, between its Bridgman and W. G. Woolfolk Compressor Stations. This pipeline loop was estimated to cost $10,239,510, it is said.

Petitioner asserts that it has further refined its enginering and environmental studies of the 5.8-mile segment of pipeline loop originally proposed and has determined that it would be preferable to substitute a single 14.2-mile pipeline loop segment of 42-inch O.D. pipe in Ottawa and Kent Counties, Michigan, for the two pipeline loops aggregating 9.4 miles in length which were authorized.

The revised proposal provides that the southern segment of loop in Van Buren County of 3.6 miles would be eliminated and that the northern segment of loop would start 2.3 miles north of its proposed southern terminus, and then, proceeding in a northerly direction, would be routed westerly approximately one mile to allow for avoidance of populated areas adjacent to the existing pipeline north of there. The pipeline loop would then be extended northerly and then easterly to reconnect with pipelines running between the Hamilton and Woolfolk Compressor Stations, it is asserted.

Petitioner submits that this rerouting and extension of the pipeline loop would remove the central portion of the extended loop pipeline from encroaching upon population centers adjacent to existing pipeline while still allowing the loop pipeline to follow an existing electric transmission line right-of-way for five miles.

Petitioner states that the rerouted facilities proposed herein are estimated to cost $17,471,390 which costs would be financed with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short-term lines of credit as may be required. It anticipates that any bank borrowings would subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 8, 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. 80-36640 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-34-000]

Michigan Wisconsin Pipe Line Co.; Application

November 18, 1980.

Take notice that on October 27, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP81-34-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas for the account of Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a fifteen-year transportation agreement dated July 10, 1980, between Texas Eastern and Applicant, Applicant proposes to transport up to 5,000 Mcf of natural gas per day assigned to Texas Eastern by the Mid Louisiana Gas Company. It is asserted that Applicant would receive the subject gas at the production platform in West Cameron Area Block 281, offshore Louisiana, and would transport it to an undersea valve in Texas Eastern's facilities in Block 280, West Cameron Area, offshore Louisiana.

The stated agreement would commence upon the date of initial delivery. Texas Eastern, it is asserted, would pay Applicant $1.85 per month for each Mcf of contract demand transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 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 proceedings. 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. 80-36641 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-35-000]

Montana-Dakota Utilities Co.; Application

November 18, 1980

Take notice that on October 27, 1980, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarch, North Dakota 58501, filed in Docket No. CP81-35-000 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 facilities on its interstate gas transmission system to implement a change in Applicant's curtailment plan in its FERC Gas Tariff, First Revised Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to amend the curtailment plan in its FERC Gas Tariff, First Revised Volume No. 1, which was approved by the Commission in Docket No. RP76-92 so as to provide for a new delivery point to serve its electric department's Glendive, Montana, combustion turbine station. Applicant also proposes herein to construct and operate a tap on its transmission main and meter and regulator facilities in order to deliver gas to its electric department's Glendive, Montana, combustion turbine station. Applicant asserts that the gas would be used as fuel for the turbine generator and would be used solely for peaking and emergency purposes. Applicant further asserts that such gas is needed to provide a reliable fuel supply at this relatively small facility which has had difficulty in obtaining a firm contract for fuel oil to operate this station. It is submitted that fuel oil which has been obtained in the Glendive area is expensive and that the availability of natural gas to supplement the use of oil at this station would result in substantial savings to Applicant's electric customers.

Applicant asserts it would assign up to 200,000 Mcf of natural gas to the Glendive turbine from present entitlements. Applicant states that it has announced in a letter dated September 22, 1980, that its Priority 4 users would no longer be curtailed although the restriction on the other priorities would continue. Applicant's curtailment plan is set forth in FERC Gas Tariff, First Revised Volume No. 1 which contains a restriction on growth in Section 2.10 as shown in First Revised Sheet No. 55A, it is said. It is further asserted that such a restriction on growth would preclude establishment of a new delivery point which is deemed necessary to provide gas to Applicant's Glendive combustion turbine station. Accordingly, Applicant proposes the addition of this station in the Index of Requirements on Sheet No. 101 and also proposes to reduce the Miles City Power Plant allocation of Priority 4 gas from 421,453 Mcf to 221,453 Mcf and assign the difference of 200,000 Mcf to the Glendive combustion turbine as Priority 4. This change, Applicant submits, would make additional volumes of gas available to its electric department, and would serve to allow more efficient and economical use of the total volume of gas available. Applicant further submits that its electric department presently utilizes grouping as allowed in the tariff and that the approval of the change requested would only serve to add an additional delivery point for the present allocation of gas. There would be no net effect on Applicant's curtailment plan since no additional volumes would be made available, it is said.

The total estimated cost to construct the delivery facilities proposed herein is $40,200 which cost would be financed through internally generated funds and/or interim short-term bank loans, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 9, 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. 80-36642 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-39-000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

November 18, 1980.

Take notice that on October 31, 1980, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-39-000, a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 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.

Pursuant to a transportation and sales agreement dated October 24, 1980, between Applicants and Northern, Applicants would transport, less 1 percent fuel and losses, up to 13,600 Mcf of natural gas per day purchased by Northern from East Cameron Block 104, offshore Louisiana. Trunkline, it is asserted, would receive the gas in Jefferson Davis Parish, Louisiana, and deliver the gas at its Longville Compressor Station in Beauregard Parish, Louisiana. It is stated that Trunkline has authorization to deliver gas to Panhandle for the account of Northern at an interconnection in Douglas County, Illinois. Further it is stated, Panhandle has authorization to deliver gas to Northern in Kiowa County, Kansas.

It is stated that Northern would have an option to reduce the transportation quantity in the sixth and subsequent years to no less than 50 percent of the initial volume. It is further asserted that Northern has agreed to sell to Panhandle up to 20 percent of the subject gas which Trunkline proposes to transport. It is stated that the purchase price for such gas would be Northern's actual weighted average purchase price

per Mcf for the respective month, or if applicable Northern Exploration and Production Division's unit modified cost of service reflected in the cost of service underlying Northern's then effective jurisdictional sales rate plus associated transportation charges plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries.

Northern would pay Panhandle $2,176 per month for 10,880 Mcf of natural gas per day subject to a 67.0-cent upward or downward adjustment per Mcf for any deficiency or excess in quantities of gas taken. Panhandle, it is stated, would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by Northern.

Northern, pursuant to a prior transportation agreement, has agreed to sell to Panhandle 20 percent of the subject gas, which Trunkline proposes to transport. Pursuant to a transportation agreement dated October 20, 1980, it is stated that Trunkline would transport, less 5 percent fuel and losses, Panhandle's gas from Trunkline's compressor station in Longville, Louisiana, to Panhandle's facilities in Douglas County, Illinois.

Panhandle, it is stated, would pay Trunkline $18,598 per month for 2,720 Mcf of natural gas transported per day subject to a 22.90-cent adjustment for more or less than stated daily quantity. Applicants state Trunkline would retain 5.0 percent of Panhandle's gas as reimbursement for fuel and line losses.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 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. 36643 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-107-000]

Southern California Edison Co.; Notice of Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 10, 1980, pursuant to FERC Order Nos. 84, 48-A-B and a Notice of Extension of Time granted August 26, 1980 in Docket No. RM79-29, Southern California Edison Company (Edison) filed the following documents:

1. Amendment No. 1 to the California Power Pool Agreement, Rate Schedule FERC No. 24.
2. Amendment No. 2 to the Pasadena-Edison 230 kV Interchange Agreement, Rate Schedule FERC No. 55.
3. Amendment No. 1 to the Six-Party Economy Energy Agreement, Rate Schedule FERC No. 61.
4. Amendment No. 1 to the Edison-Nevada Economy Energy Agreement, Rate Schedule FERC No. 64.
5. Amendment No. 1 to the City-Edison Excess Energy Sale Agreement, Rate Schedule FERC No. 71.
6. Amendment No. 1 to the Edison-Sierra Pacific Emergency Service Agreement, Rate Schedule FERC No. 75.
7. Amendment No. 1 to the Edison-Utah Economy Energy Agreement, Rate Schedule FERC No. 96.

Edison states that the limiting language of these amendments is intended to comply with FERC Order No. 84. The amendments to rate schedules FERC Nos. 55, 64 and 96 are tendered in fully executed form, while the remaining rate schedules are tendered unilaterally.

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, 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 5, 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. 80-36644 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-101-000]

Idaho Power Co; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during September, 1980, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36618 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-105-000]

Indiana & Michigan Electric Co.; Proposed Tariff Change

November 18, 1980.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company on November 10, 1980, tendered for filing proposed changes in its FERC Electric Tariff MRS and its FERC Electric Tariff WS, applicable to service to municipal resale customers. The proposed changes would increase revenues from jurisdictional sales and service by approximately $209,635, based on the 12-month period ending December 31, 1979. Indiana & Michigan Electric Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective November 1, 1980.

Copies of the filing were served upon each affected customer, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 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. 80-36626 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-5]

Minnesota Power & Light Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 7, 1980, Minnesota Power & Light Company submitted for filing certain revised rate schedules and a revised billing comparison pursuant to the decision of the Presiding Judge, issued October 14, 1980, in the above referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36627 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-108-000]

Monongahela Power Co.; Proposed Tariff Change

November 18, 1980.

The filing Company submits the following:

Take notice that Monongahela Power Company, on November 10, 1980, tendered for filing a Supplement to its FERC Electric Tariff, Original Volume No. 1 consisting of an Electric Service Agreement with the Preston Electric Company and one appendix thereto. The Agreement supersedes a previous Agreement between Monongahela Power Company and the Preston Electric Company. The proposed change would increase revenues from jurisdictional sales and service by $382,016.42 based on the twelve month period ended October 31, 1980. Monongahela Power Company has requested that the Agreement become effective January 7, 1981 in order that the date of the Agreement and the termination of the previous Agreement coincide. The proposed changes will have no effect upon purchases under other rate schedules.

The reason for the proposed change is to place Preston Electric on the same rate schedule as Monongahela Power Company's other wholesale for resale customers.

A copy of the filing has been served upon Preston Electric Company and upon the West Virginia Public Service Commission by Monongahela Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 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. 80-36620 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-114-000]

The Montana Power Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that the Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with Portland General Electric Company ("Portland"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Portland.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $1,362,027.24, based upon energy delivered from August 4, 1980, through August 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of August 4, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and Portland General Electric Company ("Portland"). Montana states that the agreement has expired as of its own terms and has not been renewed.

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 4, 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. 80-36628 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-116-000]

Montana Power Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the City of Pasadena (Pasadena). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Pasadena.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $455,286.94, based upon energy delivered from July 12, 1980 through August 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

Montana also tendered for filing a Notice of Cancellation of Schedule and all its supplement, an agreement for the sale of firm energy between Montana and the City of Pasadena ("Pasadena"). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 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. 80-36629 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-104-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing two "Exhibit A's" to a service agreement under which the Company provides tariff transmission service to the Taunton, Massachusetts, Municipal Lighting Plant. One provides for transmission of power from the Brayton Point No. 4 unit of New England Power Company for the period October 25, 1980, through October 31, 1980. The other provides for transmission of power from Boston Edison Company's new Boston Station for Various days in the first half of November 1980. The revenues from the transmission service under both Exhibit A's are estimated to be $7,898.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A's may become effective on the specified dates.

Copies of the filing have been served on the Taunton, Massachusetts, Municipal Lighting Plant.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 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 5, 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. 80-36621 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-102-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing an Exhibit A to the Company's transmission service agreement with the Town of Templeton, Massachusetts. It provides for transmission of power from Somerset Unit No. 6 for the period November 1, 1980, Through April 30, 1981.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A may become effective on November 1, 1980. The revenues from the transaction are projected to be $1,877.

Copies of the filing have been served on the Town of Templeton, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.18 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 5, 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. 80-36622 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-103-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing an Exhibit A to the Company's transmission service agreement with the Town of Mansfield, Massachusetts. It provides for transmission of power from Somerset Unit No. 6 for the period November 1, 1980, through April 30, 1981.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A may become effective on November 1, 1980. The revenues from the transaction are projected to be $1,120.

Copies of the filing have been served on the Town of Mansfield, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, in accordance with §§ 1.18 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 5, 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. 80-36623 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-304, et al.]

New England Power Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 13, 1980, New England Power Company submitted for filing a refund compliance report pursuant to the order issued in the above-referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36630 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-110-000]

New York State Electric & Gas Corp.; Filing

November 18, 1980.

The filing Company submits the Following:

Take notice that New York State Electric & Gas Corporation (NYSEG), on November 10, 1980, tendered for filing, pursuant to Section 35.12 of the Regulations under the Federal Power Act, as a rate schedule, an agreement with the Connecticut Light and Power Company. The agreement provides that NYSEG shall sell base load electric energy on an interruptible basis to Connecticut Light and Power Company. Service under this agreement commenced on October 8, 1980 and is to continue until terminated by either party upon not less than 30 days prior written notice.

NYSEG has filed a copy of this filing with the Connecticut Light and Power Company and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that October 1, 1980 be allowed as the effective date of the filing.

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 5, 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. 80-36631 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-109-000]

Ohio Power Co.; Filing

November 18, 1980.

The Filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate, Ohio Power Company (Ohio Power) tendered for filing on November 10, 1980 a change of rate schedule, Modification No. 15 to the Operating Agreement between Ohio Power Company and The Cleveland Electric Illuminating Company (CEI). This Modification provides for the sale of System Unit Power by Ohio Power and the purchase by CEI of electric power and electric energy associated therewith for the contract period and in the demand quantities as follows:

January 1, 1981—December 31, 1981—400,000 KW.

Applicant has requested the Commission to accept the Modification for filing on or before January 1, 1981 as it intends to commence the sale of System Unit Power to CEI as of that date.

The proposed change provides for extension of the duration of System Unit Power sales to CEI. The proposed billing rates of Service Schedule H—System Unit Power have not been changed and are the same as the rates originally accepted for filing by FERC on September 11, 1980 in Docket No. ER80-621.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before December 5, 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. 80-36632 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-73-000]

Southern Company Services, Inc.; Filing

November 18, 1980.

Take notice that on October 30, 1980, Southern Company Services, Inc. (Southern Company) tendered for filing revised Informational Schedule E to Service Schedule E of an Interchange Contract dated December 15, 1968 between Florida Power Corporation (FPC) and the Operating Companies. The revised Information Schedule E shows revised charges for the long-term power sale to FPC and results from operation of the formulary rate contained in Service Schedule E of the Interchange Contract.

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, 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 3, 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. 80-36624 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-106-000]

St. Joseph Light & Power Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that St. Joseph Light & Power Company (St. Joseph) on November 10, 1980, tendered for filing Amendments to Interconnection Agreements between St. Joseph and the following companies: Associated Electric Cooperative, Incorporated, FERC Rate Schedule No. 13, Iowa Power and Light Company, FERC Rate Schedule No. 12, Northern States Power Company, Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, Kansas City Power and Light Company, FERC Rate Schedule No. 11.

Said Amendments have been filed to comply with Order No. 84 of the Federal Energy Regulatory Commission in Docket No. RM79-29 which requires revenue limits to be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 5, 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. 80-36619 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-27-000]

Tejas Gas Corp.; Application for Approval of Rates

November 18, 1980.

Take notice that on October 27, 1980, Tejas Gas Corp. (Applicant), P.O. Box 2806, Corpus Christi, Texas 78401, filed in Docket No. ST81-27-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates to be charged for transporting certain natural gas for 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.

Applicant states that it and Northern have entered into an agreement dated August 28, 1980, Whereby Applicant is to provide certain gas transportation services for Northern through existing facilities owned by Applicant and located in Irion, Tom Green and Sterling Counties, Texas (Irion County Pipeline). It is further stated that such transportation service would be performed pursuant to the provisions of Section 311(a) of the Natural Gas Policy Act of 1978 and a gas exchange agreement among Valero Transmission Company, Texas Utilities Fuel Company, Northern and Applicant. The gas to be transported by Applicant would be redelivered to Northern at a point on Northern's existing interstate pipeline system and such gas so redelivered would then become a part of Northern's general system supply of gas for resale, it is said.

Applicant states that the term of its service for Northern would be a period of two years from the date of initial deliveries with such date anticipated by the parties to be on or about October 31, 1980.

Applicant proposes a base transportation charge of $0.27 per million Btu as a fair and equitable charge for the service to be rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December, 8, 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 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. 80-36633 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-30-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

November 18, 1980.

Take notice that on October 23, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-30-000 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, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 2.5 miles of 16-inch diameter pipeline extending from the South Marsh Island, offshore Louisiana, (SMI) 61-D platform to an existing 20-inch sub-sea side valve on Applicant's SMI 61-C line, along with certain appurtenant facilities.

Applicant states that it has purchased gas from Tenneco Oil Company and that the installation of the proposed facilities would make the additional 47,600,000 Mcf of natural gas having a deliverability of 70,000 Mcf per day available to Applicant's system.

Applicant estimates the total cost of the proposed facilities to be $3,700,000, which would be financed from internally generated funds. It is stated that no new sales or service by Applicant is proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 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. 80-36634 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-768, ER80-804, ER80-810, ER81-2-000, et al.]

Indiana and Michigan Electric Co., et al.; Order Accepting for Filing and Suspending in Part Revised Interconnection Agreements, Denying Waiver, Initiating Hearing and Consolidating Proceedings

Issued November 14, 1980.

In the matter of: Indiana and Michigan Electric Company, Docket Nos. ER80-768, ER80-804, ER80-810, ER81-2-000; Appalachian Power Company *et al.*, Docket No. ER80-771; Ohio Power Company, Docket Nos. ER80-775, ER80-809, ER80-811; Indiana and Michigan Electric Company, Docket No. ER80-808; and Ohio Power Company.

On various dates in September and October, 1980, on behalf of some of its affiliate companies, American Electric Power Service Corporation (AEP) submitted for filing proposed revisions to various interconnection agreements between the affiliate AEP companies and other utilities interconnected with the AEP system.[1] These proposals would revise the demand charge for fuel conservation energy and related third-party transmission services and replace the existing percentage adders to the incremental cost energy charge with fixed adders or a fixed limitation on the percentage adders.

Public notices of these filings were issued in each of the above-captioned dockets.[2] No comments, protests, or petitions to intervene have been filed.

Discussion

The filings in these dockets arise from a March 28, 1980, Commission order in *Indiana and Michigan Electric Company et al.*, Docket Nos. ER78-229 *et al.* Therein, the Commission established a "Statement of Principles" for settling disputes concerning several fuel conservation rate schedules proposed in those consolidated dockets.[3] The Commission then directed parties to those dockets who desired to comply with these principles to file conforming rate schedules. All rate schedules filed in the dockets which are the subject of this order are in response to that directive and are purported to comply with the Statement of Principles.

A. Basic Demand Charges

In each docket, the utilities propose a third-party transmission demand charge and a basic fuel conservation energy demand charge. Since the AEP companies propose identical demand charges in each of the dockets, we will first analyze these charges and then analyze the charges proposed by the other involved utilities.

1. AEP Companies

The AEP companies propose to maintain the third-party transmission demand charge at their originally proposed rate of 1.7 mills/kwh. The companies propose to increase the demand charge for fuel conservation energy from 5 mills/kwh to 7.7 mills/kwh. This latter charge consists of production and transmission components of 6.0 mills/kwh and 1.7 mills/kwh respectively.

The AEP companies attempt to support the production component of the fuel conservation demand charge based on the weighted annualized cost of the marginal units expected to provide service. These companies have adjusted the production demand costs further to reflect the projected extent that the marginal units will be available for this conservation service. The AEP companies support the transmission demand charge based on the annualized cost of AEP's average system transmission cost.

The Commission finds that the methodology underlying the development of the production component of the fuel conservation charge may be improper. Specifically, the companies' projection of expected availability of their marginal units may be unreasonably low. Also, the companies' stated expectation that only three generation units will be used to provide this service may be unreasonable. The data submitted by the AEP companies [4] cast doubt on this expectation since they indicate that a number of different units would be used for similar short-term and long-term services.

The Commission's analysis, based upon information provided by the Commission staff, indicates that this methodology may produce substantially excessive revenues.

The Commission finds that the proposed charges for third-party transmission service conform to the Statement of Principles and that this portion of the companies' filings is cost justified.

2. Illinois Power Company (Illinois) Docket No. ER80-768. Indianapolis Power and Light (Indianapolis) Docket No. ER80-810 *Duquesne Light Company (Duquesne) Docket No. ER80-811*

Illinois proposes to increase the demand charge for fuel conservation energy generated on the Illinois system from 5 mills/kWh to 6.5 mills/kWh (5.5 mills/kWh production component and 1.0 mills/kWh transmission component) and to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.0 mills/kWh Indianapolis proposes to increase the fuel conservation demand charge from 5 mills/kWh to 7.6 mills/kWh (6 mills/

[1] The revisions were filed as follows:
Docket No. and Date—
ER80-768—September 15, 1980.
ER80-771—September 16, 1980.
ER80-775—September 16, 1980.
ER80-804—September 29, 1980.
ER80-808—September 29, 1980.
ER80-809—September 29, 1980.
ER80-810—September 29, 1980.
ER80-811—September 29, 1980.
ER81-2-00—October 2, 1980.
See attachment A for rate Schedule designations.

[2] Public notices of the filings and the respective due dates for comments were as follows:

Docket No.	Issue date	Due date
ER80-768	Sept. 23, 1980	Oct. 14, 1980.
ER80-771	do	Do.
ER80-775	do	Do.
ER80-804	Oct. 8, 1980	Oct. 27, 1980.
ER80-808	do	Do.
ER80-809	do	Do.
ER80-810	do	Do.
ER80-811	do	Do.
ER81-2-000	do	Do.

[3] The Statement of Principles can be found in *Indiana and Michigan Electric Company, supra*, at Appendix B.

[4] See the AEP companies' April 7, 1980 response to a staff deficiency letter in Docket Nos. ER80-168 *et al.*

kWh production component and 1.6 mills/kWh transmission component) and to increase the third-party transmission demand charge from 1.5 mills/kWh to 1.6 mills/kWh. Duquesne proposes to increase the fuel conservation demand charge from 5 mills/kWh to 7.6 mills/kWh (6 mills/kWh production component and 1.6 mills/kWh transmission component) and to increase the third-party transmission demand charge from 1.4 mills/kWh to 1.5 mills/kWh.

The proposed third-party transmission demand charge in each of these filings is cost justified and conforms to the Statement of Principles. The Commission notes that each company supports the production component of its fuel conservation demand charge using a plant availability factor which may be unreasonably low. Nonetheless, the Commission finds each of these proposed demand charges to the cost justified.

3. *Central Illinois Public Service Company (CIPS) Docket No. ER80–804*

CIPS proposes to increase the demand charges for fuel conservation energy generated on the CIPS system from 5 mills/kWh to 8.4 mills/kWh (7.2 mills/kWh production component and 1.2 mills/kWh transmission componet) and to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.2 mills/kWh.

The proposed third-party transmission demand charge is cost justified and conforms to the Statement of Principles. However, the methodology underlying the proposed fuel conservation demand charge has not been shown to be just and reasonable. CIPS supports the production component of this charge based on a weighted annualized cost of the marginal units expected to provide service. While this approach is consistent with the Statement of Principles, it includes the following two calculations that may produce excessive revenues:/1) calculation of investment costs of the generating units based on their net summer continuous capability; and (2) calculation of demand related production O&M expenses as if they included all production expenses except fuel expenses and one-half of the maintenance expenses.

4. Cincinnati Gas & Electric Company (CG&E) Docket No. ER80–808 *Dayton Power & Light Company (Dayton) Docket No. ER80–809*

CG&E and Dayton propose identifical rates. Each proposes to increase the demand charge for fuel conservation evergy from 5 mills/kWh to 7.8 mills/kWh. Each proposes to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.3 mills/kWh.

In Docket No. ER80–572, both companies filed rates identical to those described above for the same services which they now propose. Consistent with the Commission's order issued in that docket on September 25, 1980, and for the reasons discussed therein, the Commission finds that the proposed third-party transmission demand charge is just and reasonable, while the proposal demand charge for fuel conservation energy may be unjust and unreasonable.

5. *Allegheny Power System (APS) Docket No. ER80–771*

APS proposes to decrease the third-party transmission demand charge from 1.75 mills/kWh to 1.7 mills/kWh and established a demand charge from fuel conservation from energy generated on the APS system of 6.7 mills/kWh.

In Docket No. ER80–428, APS filed identical rates for identical services to other utilities. Consistent with the order issued in that docket on July 31, 1980, and for the reasons discussed therein, the Commission finds that the above-described proposed charges are just and reasonable.

6. *Cleveland Electric Illuminating Company (CEI) Docket No. ER80–775*

Although CEI does not propose to increase the presently effective demand charge of 5.0 mills/kWh for fuel conservation energy generated on the CEI system, CEI proposes to modify the production and transmission components of the charge to reflect charges of 3.8 mills/kWh and 1.2 mills/kWh, respectively. CEI proposes to decrease its third-party transmission demand charge from 1.5 mills/kWh to 1.2 mills/kWh.

In Docket No. ER80–427, CEI filed identical rates for identical services to other utilities. Consistent with the order issued in that docket on July 31, 1980, and for the reasons discussed therein, the Commission finds that the above-described proposed charges are just and reasonable.

B. Remaining Aspects of Rate Filings

The remaining aspects of each rate filing are consistent with the Statement of Principles. The filings provide a fixed adder not exceeding two mills or a percentage energy adder capped at two mills. Also, the proposed fuel conservation schedules contain language describing both dispatch priority and replacement pricing methodology. Replacement cost of fuel is calculated as the cost of fuel delivered to the station which provided the conservation energy, for the second month following the month in which the fuel conservation energy was provided. The schedules also indicate that fuel conservation energy is assigned a dispatch priority between short term energy and economy energy. While the language with respect to these two definitions is broad, it is consistent with the Statement of Principles. Finally, all of the proposed schedules specify that energy losses will be recovered on an incremental basis. This complies with the Commission directive in its August 15, 1980, Order on Rehearing in Docket Nos. ER78–229, *et al.* which requires utilities to indicte in their rate schedules whether such losses will be calculated on a incremental or averge system basis.

Conclusions

The Commission's analysis indicates that the demand charges for fuel conservtion filed by the AEP companies (all dockets), CG&E (Docket No. ER80–808), Dayton (Docket No. ER80–809), and CIPS (Docket No. ER80–804) may have been improperly determined and that, therefore, these proposed rates may be unjust, unreasonable, unduly discriminatory, unduly preferential or otherwise unlawful. Accordingly, the Commission will accept these proposed rates for filing and suspend them as ordered below.

In a number of suspension orders [5], the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, the Commission has concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads it to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. The Commission has acknowledged, however, that shorter suspensisons may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Accordingly, the Commission suspends the specific rates described above to become effective, subject to refund, five months from sixty days after the filing proposing such lates was submitted.[6]

[5] E.g., *Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Company*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Company*, Docket Nos. ER80–488 (August 22, 1980) (one day suspension).

[6] Accordingly, the effective dates for the rates are:

Docket	Companies *	Effective dates
ER80–768	AEP	Apr. 15, 1981.
ER80–771	AEP	Apr. 15, 1981.
ER80–775	AEP	Apr. 16, 1981.
ER80–804	AEP and CIPS	Apr. 29, 1981.
ER80–808	AEP and CG&E	Apr. 29, 1981.
ER80–810	AEP	Apr. 29, 1981.
ER80–811	AEP	Apr. 29, 1981.
ER81–2–000	AEP	May 2, 1981.
ER80–809	AEP and Dayton	Apr. 29, 1981.

As previously indicated, the rates under investigation in Docket No. ER80–572 involve common issues of fact and law. The Commission therefore directs that an investigation of the suspended charges herein be consolidated with the proceedings in Docket No. ER80–572.

The Commission's analysis also indicates that (1) the proposed third-party transmission demand charges for all companies, (2) the demand charges for self-generated fuel conservation energy proposed by APS (Docket No. ER80–771), Illinois (Docket No. ER80–768), CEI (Docket No. ER80–775), Indianapolis (Docket No. ER80–810), and Duquesne (Docket No. ER80–811), and, so far as all filings are concerned, (3) the energy charges with the revised adders; (4) the procedure to calculate losses, (5) the replacement pricing methodology, and (6) the dispatch priority assigned to fuel conservation energy should be accepted for filing without suspension to become effective as discussed below.

Each filing requested that the rates proposed therein could become effective immediately should circumstances arise requiring their use. This we take as an implied request for waiver of the statutory notice requirements. As a general matter, the Commission grants requests for waiver when the buyer or buyers agree to the waiver and the waiver appears to be consistent with the public interest. Here, however, the consent of the buyers is less meaningful, because the major impact of an increase in a fuel conservation energy rate is likely to be on ultimate third-party buyers who are not party to the contract. Furthermore, the suspended rates may be excessive and inconsistent with the Statement of Principles. Consequently, the Commission does not find good cause for the requested waiver for the suspended rates. As to the rates which we are accepting, we agree that early effectiveness of such rates is desirable. We shall therefore grant the waiver as necessary to permit all of the accepted rates to become effective on November 15, 1980.

As noted, the currently proposed fuel conservation rates would supersede rates filed in the consolidated Docket Nos. ER78–229 *et al.* There have been no transactions under the prior fuel conservation schedules. However, the superseding rates will not become effective for five months from sixty days after the filing proposing such rates was submitted. The Commission will terminate the dockets in Docket Nos. ER78–229 *et al.* accordingly.[7]

The Commission orders:

(A) Waiver of the statutory notice requirements are hereby granted, in part, as provided above.

(B) The proposed demand charges for self-generated fuel conservation energy filed by the AEP companies, CIPS, CG&E and Dayton are hereby accepted for filing and suspended for five months from 60 days after the filing date in the respective dockets, becoming effective at that time subject to refund.

(C) The remaining portions of the filings not suspended by ordering paragraph (B) are hereby accepted for filing and waiver of the notice requirements granted where necessary for the rates to become effective on November 15, 1980.

(D) The following fuel conservation energy dockets presently consolidated in the proceedings in Docket Nos. ER78–229 *et al.* shall be terminated on the dates indicated:

Docket Nos. ER78–229 and ER78–249, April 15, 1981; Docket No. ER79–242, April 16, 1981; Docket Nos. ER78–292, ER78–313, ER79–254, ER80–1 and ER80–6, April 29, 1981, and Docket No. ER79–247, May 2, 1981.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR, Ch. 1), a public hearing shall be held concerning the justness and reasonableness of the proposed demand charges referenced in ordering paragraph (A).

(F) All dockets in this proceeding are hereby consolidated with Docket No. ER80–572 for purposes of hearing and decision.

(G) A prehearing conference is hereby ordered to be held within 30 days of the issuance of this order for purposes of establishing further procedural dates as may be necessary including dates for the submittal of case-in chief by the AEP companies and CIPS.

By the Commission.

Kenneth F. Plumb,

Secretary.

Rate Schedule Designations

Docket No. ER80–768

(1) *Indiana & Michigan Electric Company,* Supplement No. 14 to Rate Schedule FPC No. 23, (Supersedes Supplement No. 11)
(2) *Illinois Power Company,* Supplement No. 13 to Rate Schedule FPC No. 9, (Supersedes Supplement No. 10)

Docket No. ER80–771

(3) *Appalachian, Power Company,* Supplement No. 16 to Rate Schedule FPC No. 55, (Supersedes Supplement No. 11)
(4) *Monongahela Power Company,* Supplement No. 12 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 6)
(5) *Ohio Power Company,* Supplement No. 16 to Rate Schedule FPC No. 73, (Supersedes Supplement No. 11)
(6) *West Penn Power Company,* Supplement No. 12 to Rate Schedule FPC No. 28, (Supersedes Supplement No. 6)
(7) *Wheeling Electric Company,* Supplement No. 16 to Rate Schedule FPC No. 5, (Supersedes Supplement No. 11)

Docket No. ER80–775

(8) *Ohio Power Company,* Supplement No. 14 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 8)
(9) *Cleveland Electric Illuminating Company,* Supplement No. 13 to Rate Schedule FPC No. 1, (Supersedes Supplement No. 8)

Docket No. ER80–804

(10) *Indiana & Michigan Electric Company,* Supplement No. 20 to Rate Schedule FPC No. 67, (Supersedes Supplement Nos. 15 and 16)
(11) *Central Illinois Public Service Company,* Supplement No. 12 to Rate Schedule FPC No. 62, (Supersedes Supplement No. 9 and concurs in (10) above)

Docket No. ER80–808

(12) *Indiana & Michigan Electric Company,* Supplement No. 16 to Rate Schedule FPC No. 16, (Supersedes Supplement No. 9)
(13) *Ohio Power Company,* Supplement No. 16 to Rate Schedule FPC No. 21, (Supersedes Supplement No. 9)
(14) *Cincinnati Gas & Electric Company,* Supplement No. 10 to Rate Schedule FPC No. 13, (Supersedes Supplement No. 6 and concurs in (12) and (13) above)

Docket No. ER80–809

(15) *Dayton Power and Light Company,* Supplement No. 11 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 8)
(16) *Ohio Power Company,* Supplement No. 24 to Rate Schedule FPC No. 36, (Supersedes Supplement No. 21)

[7] These dockets will be terminated as of the following dates:

Docket No.	Superseding docket No.	Termination date
ER78–229	ER80–768	Apr. 15, 1981.
ER78–249	ER80–771	Apr. 15, 1981.
ER78–292	ER80–808	Apr. 29, 1981.
ER78–313	ER80–811	Apr. 29, 1981.
ER79–242	ER80–775	Apr. 16, 1981.
ER79–247	ER81–2–000	May 2, 1981.
ER79–254	ER80–810	Apr. 29, 1981.
ER80–1	ER80–804	Apr. 29, 1980.
ER80–6	ER80–809	Apr. 29, 1980.

Docket No. ER80–810

(17) *Indiana & Michigan Electric Company*, Supplement No. 17 to Rate Schedule FPC No. 21, (Supersedes Supplement No. 14)
(18) *Indianapolis Power & Light Company*, Supplement No. 15 to Rate Schedule FPC No. 1, (Supersedes Supplement No. 12)

Docket No. ER80–811

(19) *Duquesne Light Company*, Supplement No. 11 to Rate Schedule FPC No. 8, (Supersedes Supplement No. 9)
(20) *Ohio Power Company*, Supplement No. 11 to Rate Schedule FPC No. 30, (Supersedes Supplement No. 9)

Docket No. ER81–2–000

(21) *Indiana & Michigan Electric Company*, Supplement No. 8 to Rate Schedule FERC No. 70, (Supersedes Supplement No. 6)

[FR Doc. 80–36637 Filed 11–24–80; 8:45 am]
BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[A5 FRL 1643–4]

Ohio; Extension of the Interim Enforcement Policy for Sulfur Dioxide Emission Limitations

Correction

In FR Doc. 80–33481, appearing on page 71422 in the issue of Tuesday, October 28, 1980, at the end of the first "Summary" paragraph, delete the period and add the words, "and was clarified on September 8, 1980 (45 FR 59199).".

BILLING CODE 1505–01–M

[AS–FRL 1677–2]

Prevention of Significant Deterioration of Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of ruling.

SUMMARY: EPA hereby gives notice that it has withdrawn a ruling that it made in August 1978 under its PSD regulations in effect at that time. The ruling was that primary and secondary dust control and collection equipment on a hot-mix asphalt batch plant is "air pollution control equipment" within the meaning of the definition of "potential to emit" in those regulations.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919–541–5292.

SUPPLMENTARY INFORMATION: In June 1978, EPA promulgated two sets of regulations for the prevention of significant deterioration of air quality (PSD). One set, which upon promulgation became a part of each state implementation plan, required any "major stationary source" or "major modification" in certain circumstances to have a PSD permit before construction on it could begin lawfully. *See* 43 FR 26388 (codified at 40 CFR 52.21 (1979)) (the "1978 Part 52 regulations"). The other set specified the minmum requirements that a PSD program submitted by a state as a substitute for the federal program would have to meet in order to warrant EPA approval. *See* 43 FR 26380 (codified at 40 CFR 51.24 (1979)) (the "1978 Part 51 regulations").

Under both the 1978 Part 51 and Part 52 regulations, whether a source or modification was "major" depending upon its potential to emit." That term meant "the capability at maximum capacity to emit a pollutant *in the absence of air pollution control equipment.*" "Air pollution control equipment," in turn, meant "control equipment which is not *** *vital* to production of the normal product of the source or to its normal operation." *See* 40 CFR 51.24(b)(1)–(3), 52.21(b)(1)–(3)(1978) (emphasis added).

In July 1979, Ashland-Warren, Inc., an owner and operator of hot-mix asphalt batch plants, asked EPA whether primary and secondary dust control and collection equipment on those plants is "air pollution control equipment" within the meaning of the defintion of "potential to emit." In a letter dated August 18, 1978, EPA responded that such equipment is "air pollution control equipment" on the ground it is not vital to the production of the normal product of such plants. A copy of the letter appears below as Appendix A.

Ashland-Warren subsequently challenged that ruling. In addition to bringing a judicial action, it petitioned EPA to reconsider the ruling. EPA began a reconsideration, but later suspended it when the agency proposed a new and different definition of "potential to emit." See 44 FR 51948, 51952 (September 5, 1979).

On August 7, 1980, EPA promulgated a new definition of "potential to emit." It provides that the term means "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design." 45 FR 52730–31, 52736. It adds that "[a]ny physical or operational limitation on the capacity of a source to emit a pollutant, including air pollution control equipment" may be treated as part of its design only if the limination or the effect it would have is federally enforceable. 45 FR 52688, 52730–31, 52736.

As a result of that new definition of "potential to emit," EPA has withdrawn the August 1978 ruling. A copy of the letter of withdrawal appears below as Appendix B. It indicates the reasons for the withdrawal and adds that, in withdrawing the ruling, EPA is not intend to express any view on its merits.

Dated: November 17, 1980.

David G. Hawkins,

Assistant Administrator, Office of Air, Noise and Radiation.

Appendix A

U.S. Environmental Protection Agency,
Office of Air Quality Planning and Standards,
Research Triangle Park, N.C., August 18, 1978.

Mr. Theodore L. Garrett,
Counsel for Ashland-Warren, Inc., Covington and Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

Dear Mr. Garrett: Thank you for your letter of July 26, 1978. In that letter you ask for a ruling "that in the case of the hot-mix asphalt industry, potential emissions include only those expected to occur with the use of primary and secondary dust control and collection equipment."

We have carefully reviewed the arguments in your letter referred to above and in the January 31, 1978, comments of Ashland-Warren, Inc., and the National Asphalt Pavement Association regarding proposed regulations for the prevention of significant deterioration (PSD) of air quality (42 FR 57471–79, November 3, 1977).

In response to your request, a ruling that would define potential emissions to include only those expected to occur with the use of primary and secondary dust control equipment would not be consistent with the recently published regulations for the prevention of significant deterioration. Neither the primary nor secondary control equipment generally used by the asphalt industry is so vital that the produce could not be produced without the control equipment. Basically, the mineral fines, when necessary for the product, need not come solely from those collected through the dust collection systems. Such resource recovery activity, though financially beneficial to the source, is not "vital to the production of the normal product" and must be included in calculating potential emissions under the PSD regulations. *See*, 43 FR 26392, June 19, 1978.

In response to other comments raised by Ashland-Warren and the National Asphalt Pavement Association, the Agency amended the proposed regulations to alleviate a serious review burden that the asphalt industry would have been subject to otherwise. Specifically, the regulations were amended to allow for a one-time permit for asphalt batch plants without requiring addtional permits for relocations. *See*, 40 CFR §§ 51.24(i), 52.21(i). This exemption meets the primary concerns of the asphalt industry as indicated by the comments to the proposed regulations.

In addition, I would like to point out that the current PSD regulations contain a two-tier review which focuses the detailed, more

time-consuming aspects of the PSD review on those sources with allowable emissions (i.e., those after control) of greater than 50 tons per year, 1000 pounds per day, or 100 pounds per hour. For major sources subject to PSD with allowable emissions less than the above cutoffs, the review would only consist of a determination that (1) the emissions from the source would not adversely impact areas with known violations of the applicable PSD increment or any Class I area, (2) a valid State new source review permit had been obtained, and (3) there was adequate opportunity for public comment on the proposed new source. It is my understanding that most hot-mix asphalt plants will be able to qualify for this abbreviated PSD review through the application of good control technology.

I trust this fully responds to your inquiry.
Sincerely yours,

Walter C. Barber,

Director, Office of Air Quality Planning and Standards

Appendix B

U.S. Environmental Protection Agency,
Office of Air, Noise, and Radiation
Washington, D.C., November 12, 1980.

Theodore L. Garrett, Esq., I26Covington and Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

Dear Mr. Garrett: In my letter to you of August 18, 1978, EPA ruled that dust collection equipment on an asphal tplant is "air pollution control equipment" within the meaning of the definition of "potential to emit" in the PSD regulations which appear at 40 CFR 51.24 and 52.21 (1979). As a result of the recent revision of that definition of "potential to emit," EPA hereby withdraws the August 1978 ruling.

The central reason for the withdrawal is that the issue of whether dust collection equipment is "air pollution control equipment" no longer matters under 40 CFR 51.24 and 52.21. The new definition of "potential to emit" in those regulations establishes that one may take any limitation on the emissions capacity of a proposed project into account in calculating its "potential to emit," so long as the limitation or its effect is federally enforceable. 45 FR 52730–31, 52736 (August 7, 1980). Dust collection equipment would constitute such a limitation. Hence, even if the equipment were "air pollution control equipment," one could nevertheless take its effect on emissions into account, provided that the effect was federally enforceable. Furthermore, even if the equipment were not "air pollution control equipment," its effect would still have to be federally enforceable to be taken into account.

In withdrawing the August 1978 ruling, EPA intends that the ruling should no longer play any role at the state and federal levels, as if it had never existed. EPA does not intend, however, to express any view of its merits.

EPA intends to place a brief notice of this withdrawal in the **Federal Regiser** in the near future.

Sincerely,

Walter C. Barber,

Director, Office of Air Quality Planning.

[FR Doc. 80-36814 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-36-M

[PH FRL 1633-3; OPP-30000/35A]

Carbon Tetrachloride; Pesticide Programs; Rebuttable Presumption Against Registration and Contained Registration of Certain Pesticide Products

Correction

In FR Doc. 80–31808 appearing at page 68551 in the issue for Wednesday, October 15, 1980, make the following corrections:

1. On page 68551, in the second column, paragraph 2., the fourth line, "cholorie" should be corrected to read "chloride"; also in the same paragraph, the tenth line, "naptha" should be corrected to read "naphtha".

2. On page 68553 in the second column, the last line "and discussed" should be corrected to read "are discussed".

3. On pages 68564 and 68565, "CCl" should be corrected to read "CCl_4".

4. On page 68564, in the second column, the first paragraph, third line from the bottom "macroscopic" should be corrected to read "microscopic".

5. On page 68569, in the first column, the first paragraph, the tenth line "portentiates" should be corrected to read "potentiates".

6. On page 68569, in the second column, the last line "use" should be corrected to read "used".

7. Also on page 68569, in the third column, the forth line from the bottom, " > " should be deleted.

8. On page 68570, in the third column, the fourth line under the table "form" should be corrected to read "from".

9. On page 68580, in the first column, the first paragraph, the ninth line "of difference" should be corrected to read "of a difference"; and also in the fourth line from the bottom "the" should be corrected to read "that".

BILLING CODE 1505-01-M

[Docket No. ECAO-CD-79-1; AD-FRL 1682-5]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: In the **Federal Register** of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM–SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the third in that series of meetings, and invites public attendance at the meeting.

DATES: The third meeting is scheduled to be held on December 4 and 5, 1980, beginning at 9 a.m., concerning chapters 7 and 8 (Acidic Deposition and Vegetation Effects). Information concerning the subject matter and dates of additional meetings will be announced in subsequent **Federal Register** notices.

ADDRESS: The meeting of December 4 and 5, 1980, will be held in Room 128 of the EPA Annex (Beaunit Building), Alexander Drive, Research Triangle Park, North Carolina. The location of additional meetings will be announced in subsequent **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT: Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919/541–4172.

Peter Voytek,

Acting Director, Office of Health and Environmental Assessment.

November 20, 1980.

[FR Doc. 80-36845 Filed 11-24-80; 8:50 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-21]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: November 4, 1980.

Cut-Off Date: December 18, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after December 18, 1980. An application, in order to be considered with any application appearing on the attached list or with any application on file by the close of business on December 18, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not

later than the close of business on December 18, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on December 18, 1980.

Attachment.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH–800229AE (WSVS–FM), Crewe, Va., Southern Virginia Broadcasting Corp. Has: 104.7 mHz; Channel No. 284C. ERP: 40 kW; HAAT: 450 ft. (Lic). Req: 104.7 mHz; Channel No. 284C. ERP: 100 kW; HAAT: 450 feet.

BPH–800407AG (KMIT), Mitchell, S. Dak., Mitchell Broadcasting, Ltd. Has: 105.9 mHz; Channel No. 290C. ERP: 3 kW; HAAT: 300 ft. (Lic). Req: 105.9 mHz; Channel No. 290C. ERP: 64.5 kW; HAAT: 291 feet.

BPH–800529AF (WFFF–FM), Columbia, Miss., Haddox Enterprises, Inc., Has: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT: 100 ft. (Lic). Req: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT: 300 feet.

BPH–800530AF (WAOR), Niles, Mich., Niles Broadcasting Co., Has: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 160 ft. (Lic). Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 feet.

BPH–800619AG (new), Whitehall, Wis., Intercontinental Communications Corp., Req: 102.3 mHz; Channel No. 272A. ERP: 1.55 kW; HAAT: 400 feet.

BPH–800807AG (new), Bentonville, Ark., Elvis L. Moody. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT: 300 feet.

BPH–800808AB (new), Monroe City, Mo., Lynnlee Broadcasting Co., Inc., Req: 101.7 mHz; Channel No. 269A. ERP: 2.4 kW; HAAT: 330 feet.

BPH–800811AH (new), Kingsville, Tex., Megahype Broadcasting. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 210 feet.

BPH–800813AC (new), Port Henry, N.Y., Peter Edward Hunn. Req: 106.3 mHz; Channel No. 292A. ERP: .818 kW; HAAT: −77 feet. (Allocated to Moriah, NY.)

BPH–800814AB (new), Iron Mountain, Mich., Iron Mountain-Kingsford Broadcasting Co. Req: 93.1 mHz; Channel No. 226C. ERP: 100 kW; HAAT: 635 feet.

BPH–800815AA (new), Madison, Fla., Madison Communications Corp. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 feet.

BPH–800819AE (KWLF), Oakdale, Calif., Goldrush Broadcasting, Inc., Req: 95.1 mHz; Channel No. 236B. ERP: 11.2 kW; HAAT: 912 feet.

BPH–800821AB (WRKT–FM), Cocoa Beach, Fla., Triplett Broadcasting Co. of Georgia, Inc. Has: 104.1 mHz; Channel No. 281C. ERP: 30 kW; HAAT: 165 ft. (Lic). Req: 104.1 mHz; Channel No. 281C. ERP: 100 kW; HAAT: 1392 feet.

BPH–800822AE (KFDI–FM), Wichita, Kans., Wichita Great Empire Broadcasting, Inc. Has: 101.3 mHz; Channel No. 267C. ERP: 100 kW; HAAT: 440 ft. (Lic). Req: 101.3 mHz; Channel No. 267C. ERP: 100 kW; HAAT: 1130 feet.

BPH–800910AN (new), Chelan, Wash., The Northcentral Broadcasting Co. Req: 93.5 mHz; Channel No. 228A. ERP: .165 kW; HAAT: 1040 feet.

BPH–800922AA (WDDD), Marion, Ill., 3–D Communications Corp., Has: 107.3 mHz; Channel No. 297B; ERP: 50 kW; HAAT: 500 feet (LIC); Req: 107.3 mHz; Channel No. 297B; ERP: 20 kW; HAAT: 720 feet.

BMPH–800609AG (KIJK), Prineville, Oreg., High Lakes Broadcasting Co., Has: 95.3 mHz; Channel No. 237A; ERP: 3 kW; HAAT: −98 feet (CP); Req: 95.3 mHz; Channel No. 237A; ERP: 1.12 kW; HAAT: 456 feet.

BPED–791026AJ (WCVY), Coventry, R.I., Coventry Rhode Island Public Schools, Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: .200 kW; HAAT: 36 feet.

BPED–791121AC (KKUP), Cupertino, Calif., Assurance Science Foundation; Has: 91.5 mHz; Channel No. 218D; ERP: .042 kW; HAAT: 2,290 feet (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: ERP: .041 kW; HAAT: 2,270 feet.

BPED–791123AB (new), Kalamazoo, Mich., Board of Education School District of Kalamazoo; Req: 89.9 mHz; Channel No. 210A; ERP: .140 kW; HAAT: 127 feet.

BPED–791221AL (KVFG), Thibodaux, La., Nicholls State University; Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: 3 kW; HAAT: 286 feet.

BPED–791226BB (KLHS–FM), Lewiston, Idaho; Independent School District No. 1; Has: 89.1 mHz; Channel No. 206D; TPO: .01 kW; (LIC); Req: 88.9 mHz; Channel No. 205A; ERP: .153 kW; HAAT: −810 feet.

BPED–791226CF (KDUR), Durango, Colo., Fort Lewis College; Has: 91.9 mHz; Channel No. 220D; TPO: .01 kW; (LIC); Req: 91.9 mHz; Channel No. 220A; ERP: .223 kW; HAAT: −447 feet.

BPED–791226CH (WONY), Oneonta, N.Y., State University of New York; Has: 90.9 mHz; Channel No. 215D; TPO: .01 kW; (LIC); Req: 90.0 mHz; Channel No. 215A; ERP: .177 kW; HAAT: −72 feet.

BPED–791226CR (KICC), International Falls, Minn., Rainy River Community College, Has: 91.5 mHz; Channel No. 218D; TPO: .01 kW. (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: .18 kW; HAAT: 99 feet.

BPED–791226CS (WIUV), Castleton, Vt., Vermont State College, Has: 91.3 mHz; Channel No. 217D; TPO: .01 kW. (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: .124 kW; HAAT: −235 feet.

BPED–791226CU (WUTM), Martin, Tenn., University of Tennessee at Martin; Has: 90.3 mHz; Channel No. 212DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 90.3 mHz; Channel No. 212A; ERP: .185 kW; HAAT: 250 feet.

BPED–791226CW (WRMC–FM), Middlebury, Vt., Middlebury College, Has: 91.7 mHz; Channel No. 219D; TPO: .01 kW. (LIC); Req: 91.7 mHz; Channel No. 219A; ERP: .100 kW; HAAT: −37 feet.

BPED–791226CX (WUTS), Sewanee, Tenn., University of the South; Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: .205 kW; HAAT: 658 feet.

BPED–791226CZ (WWLC), Lynchburg, Va., Lynchburg College; Has: 90.3 mHz; Channel No. 212DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 90.3 mHz; Channel No. 212A; ERP: .114 kW; HAAT: 35 feet.

BPED–791226DH (KSDB–FM), Manhattan, Kans., Kansas State University; Has: 88.1 mHz; Channel No. 201DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 88.1 mHz; Channel No. 201A; ERP: .102 kW; HAAT: −38 feet.

BPED–791227AD (WETD), Alfred, N.Y., State University of New York; Has: 91.3 mHz; Channel No. 217D; TPO: .01 kW. (LIC); Req: 90.9 mHz; Channel No. 215A; ERP: .360 kW; HAAT: 285 feet.

BPED–791227AP (WDUB), Granville, Ohio; Denison University; Has: 90.9 mHz; Channel No. 215DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.1 mHz; Channel No. 216A; ERP: .100 kW; HAAT: 169 feet.

BPED–791227AW (WSYC–FM), Shippensburg, Pa., Shippensburg State College; Has: 88.7 mHz; Channel No. 204D; TPO: .01 kW. (LIC); Req: 88.7 mHz; Channel No. 204A; ERP: .129 kW; HAAT: −157 feet.

BPED–791231BB (WBOR), Brunswick, Maine, The Bowdoin College; Has: 91.1 mHz; Channel No. 216D; TPO: .01 kW; (LIC); Req: 91.1 mHz; Channel No. 216A; ERP: .300 kW; HAAT: 166 feet.

BPED–800610AA (new), Batavia, Ohio, WCNE Educational Community Radio, Inc. Req: 88.7 mHz; Channel No. 204B; ERP: 3.5 kW; HAAT: 190 feet.

BMPED–800918AD (KAZI), Austin, Tex., Austin Community Radio; Has: 88.7 mHz; Channel No. 204A; ERP: .13 kW; HAAT: 1,120 feet (CP). Req: 88.7 mHz; Channel No. 204A; ERP: 1.62 kW; HAAT: 345 feet.

[FR Doc. 80–36673 Filed 11–24–80; 8:45 am]

BILLING CODE 6712–01–M

[Report No. A–21A]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date; Correction

Released: November 14, 1980.

The FM application listed below, which was inadvertently omitted from the cut-off notice, Report No. A–21, Mimeo No. 01109 released on November 4, 1980, is hereby incorporated into that Notice. Cut-off date: December 18, 1980.

BPED–800215AM (new), Washburn, Wis., Washburn Public Schools. Req: 90.5 mHz; #213. ERP: 150 watts; HAAT: 250 feet.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–36672 Filed 11–24–80; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 80-339; Transmitted No. 2258, et al.]

ITT World Communications Inc. et al.; Revisions to Tariffs for Establishing Separate Charges for Terminals, Tielines, and Transmission Offered in Connection With International Telex Service and Implementing Expanded Gateways and Additional Domestic Operating Areas for International Telecommunications Service

In the matter of ITT World Communications Inc. (Transmittal Nos. 2258, 2259, 2260, 2280), RCA Global Communications, Inc. (Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636), TRT Telecommunications Corporation (Transmittal Nos. 909, 910, 911), Western Union International, Inc. (Transmittal Nos. 1430, 1431, 1447), Western Union International Caribbean, Inc. (Transmittal No. 224) and FTC Communications, Inc. (Transmittal Nos. 69, 77) (45 FR 67463).

Adopted: November 5, 1980.

Released: November 14, 1980.

By the Chief, Common Carrier Bureau:

1. TRT Telecommunications Corporation (TRT), Western Union International, Inc. (WUI), and FTC Communications, Inc. (FTCC) have each requested extensions of time from November 6, 1980 to November 21, December 5, and December 8, 1980, respectively, in which to file their direct cases in Docket No. 80-339.

2. In its petition, TRT explains that the personnel assigned to the task of developing TRT's direct case and assembling the data were called upon to resolve a labor dispute and could not complete their work in this docket on time. WUI argues that it has been diligently assembling and analyzing the required data, but that the enormity of the operation prevents it from completing it on time. FTCC states that the person assigned the task of collecting the data was required to attend planning sessions on TAT-7 and that obtaining the pre-1979 data from Paris has resulted in considerable delays. All three carriers suggest that they will be able to present the Commission with better and more complete information if granted the additional time.

3. The Western Union Telegraph Company (Western Union) does not oppose a grant of an extension of time to FTCC or TRT, but does oppose a grant to WUI or to the carriers in general. Western Union argues that the carriers have known of the investigation since July 1, 1980 and have had considerable time since the release of the order on August 8, 1980, to prepare their direct cases.

4. Although we are interested on the one hand in conducting the investigation quickly, we are also concerned that the information upon which the Commission will base its decision be as complete and accurate as possible. An additional 30 days' time should contribute to this latter goal without serious impairment to the former. Therefore, we find that the requested extension of time would not be contrary to the public interest.

5. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, That the requests for an extension of time filed by TRT Telecommunications Corporation, Western Union International, Inc., and FTC Communications, Inc. are granted.

6. It is further ordered, That each of the International Record Carriers (IRCs) shall submit their direct cases on or before December 8, 1980. Other parties may file their reply cases or comments within 30 days thereafter. The IRCs may file their responses within 15 days thereafter.

7. It is further ordered, That this Order shall be published in the **Federal Register.**

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-36670 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1257]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 17, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed by December 10, 1980. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Operation of Visual and Aural Transmitters of TV Stations (BC Docket No. 80-10).

Filed by: Everett H. Erlick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., R. Michael Senkowski and W. Kennedy Keane, Attorneys for American Broadcasting Companies, Inc., on 10-27-80.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Mt. Vernon, Ohio) (BC Docket No. 80-22, RM-3286).

Filed by: Thomas Schattenfield and Susan A. Marshall, Attorneys for Mt. Vernon Broadcasting Company (WMVO-AM-FM) on 9-10-80.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-36677 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 5, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompained by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10406.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006.

Summary: Agreement No. 10406 is a general agency and terminal services agreement between Trailer Marine Transport Corporation (TMT) and Remolcadores y Chalanes, S.A. (Remolcadores). The agreement provides that TMT will act as exclusive general agent in the United States for Remolcadores in connection with the latter's roll-on/roll-off service between the U.S. Gulf and the Mexican Gulf. TMT's duties are to include solicitation, booking and documentation of cargo, as well as a full range of other duties customarily performed by a general agent. The agreement also

provides that, at ports where TMT owns or leases terminal facilities, it will provide berth and docking space and other related services for Remolcadores' vessels. The agreement is irrevocable until October 31, 1985, and continues indefinitely thereafter or until terminated by the parties.

By Order of the Federal Maritime Commission.

Dated: November 19, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36711 Filed 11-24-80; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Listing of controlled carriers.

SUMMARY: The Federal Maritime Commission hereby lists an additional "controlled carrier" as defined by the Shipping Act, 1916, that is not totally exempt from the provisions of the Act. This carrier is being added to the list of "controlled carriers" appearing in the **Federal Register** of June 30, 1980.

DATES: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: The Ocean Shipping Act of 1978 (Pub. L. 95-483) was incorporated into sections 1 and 18(c) of the Shipping Act, 1916 (46 USC 801, 817(c)) (the Act), and provides for the regulation of the rates or charges of certain state-owned or controlled carriers operating in the foreign commerce of the United States. These provisions became effective November 17, 1978, imposing upon the Federal Maritime Commission the responsibility to regulate the rates and practices of such carriers operating as "cross-traders" in the United States ocean-borne foreign commerce.

Not all controlled carriers are subject to the regulatory requirements of Pub. L. 95-483. Section 18(c)(6) of the Act sets forth two categories of controlled carriers which are exempt from the regulatory requirements and three conditions under which controlled carriers are exempt in certain trade areas. For example, rates of controlled carriers in the bilateral trades or in a trade served exclusively by controlled carriers are exempt from the rate regulations prescribed in Pub. L. 95-483. Likewise, rates which are established pursuant to an agreement among carriers, such as a conference agreement, are exempt. However, rates set independently (such as open rates) are subject to the regulatory requirements of Pub. L. 95-483 when not related to cargo moving in the bilateral trades or a trade served exclusively by controlled carriers.

In order to identify controlled carriers that are not exempt from the provisions of the Act, the Commission periodically issues section 21 Orders to carriers who could meet the definition of a controlled carrier under the Act. The Orders require the carriers to answer questions concerning ownership, flag of their vessels, operating areas, United States trades served, and seek their opinion as to possible exemptions.

Upon reviewing recent carrier responses, the Commission has classified Surinam Navigation Company as a controlled carrier, pursuant to the definition contained in the Act, that has not been totally exempted by section 18(c)(6) of the Shipping Act, 1916.

On October 10, 1980, a letter was sent to Surinam Navigation Company advising it of the Commission's action. The carrier was also advised that all of its rates, including open rates, in the bilateral trades between the U.S. and Surinam are exempt. However, in the crosstrades between the United States and other countries, rates set independently of section 15 conference or rate agreements, such as open rates, are subject to section 18(c) of the Shipping Act.

Therefore, pursuant to section 18(c) of the Shipping Act, 1916, the Federal Maritime Commission has classified Surinam Navigation Company as a controlled carrier and is amending the list of controlled carriers that have not been totally exempted by section 18(c)(6) of the Act, previously published in the **Federal Register** on June 30, 1980 to include this carrier. The amended list is shown below:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
Compagnie Maritime Zairoise (CMZ)—Zaire
Compagnie Nationale Algerienne de Navigation—Algeria
Companhia de Navegacao Loide Brasileiro—Brazil
Compania Chilena De Navegacion Interoceanica, S.A.—Chile
Djakarta Loyd, P.T.—Indonesia
Egyptian National Line—Egypt
Far Eastern Shipping Co. (FESCO)—U.S.S.R.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Gatemala
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Neptune Orient Lines (NOL)—Singapore
Pakistan National Shipping Corporation—Pakistan
Peruvian State Line—Peru
Polish Ocean Lines—Poland
Shipping Corporation of India—India
South African Marine Corp. Ltd.—South Africa
Surinam Navigation Company—Surinam
Transportes Navieros Ecuatorianos (Transnave)—Ecuador

The process of identification and classification of controlled carriers is continuous. The list as shown will be amended as such carriers enter and leave the United States foreign trades.

By the Commission November 12, 1980

Francis C. Hurney,

Secretary.

[FR Doc. 80-36710 Filed 11-24-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First American Bank Corp.; Acquisition of Bank

First American Bank Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The First National Bank of Alger County, Munsing, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 17, 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, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36686 Filed 11-24-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Texas International Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Tiger Drilling Company from Edward Mike Davis. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. Davis. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–36763 Filed 11–24–80; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 17, 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 receipts.

The notice includes the title of each 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 FCC and NRC requests 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 requests, comments (in triplicate) must be received on or before December 15, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Rom 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.

Federal Communications Commission

The FCC requests an extension without change clearance of Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies, which is required by Sections 1.786 and 43.31 of the Commission's Rules and Regulations and Section 219A of the Communications Act of 1934. All Class A telephone companies who have operating revenues for the preceding year in excess of $1,000,000 must file with the FCC a certified copy of this report within 40 days after the end of each calendar month. The FCC estimates respondent burden to average 8 hours per report and that approximately 68 respondents will complete Form 901 monthly.

Nuclear Regulatory Commission

The NRC requests clearance of the application and recordkeeping requirements contained in a new ALARA program for Academics. The program is designed to reduce collective academic occupational radiation exposures. NRC has in the past required ALARA (as low as is reasonable achievable—radiation exposures and releases) programs for fuel cycle licensees and recently established a program for medical licensees that contained numerical guidelines for occupational exposures NRC expects to be attained. This new academic ALARA program is similar to the medical program and is expected to reduce collective academic occupational doses while maintaining individual worker doses at 10 percent or less of dose limits contained in 10 CFR Part 20. NRC states that some leeway is provided for special cases. The program was developed with the advice and assistance of representatives of the Campus Radiation Safety Officers. The NRC estimates that approximately 320 NRC licensees will participate in the program and that time for each licensee or applicant to prepare a program to be submitted with a license application or renewal request will require a one-time burden of 8 hours per applicant or licensee. Each licensee will be required to maintain records concerning the considerations used in establishing action levels for its program which will require one hour annually. Each licensee will be required to maintain records of each personnel exposure investigation and such recordkeeping will require one hour for each investigation record.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–36764 Filed 11–24–80; 8:45 am]

BILLING CODE 1610–01–M

Regulatory Reports Review; Receipt and Approval of Report Proposal

A request for an extension clearance of Form OP–1, Application for Motor or Water Carrier Certificate of Permit, Brokerage License, Freight Forwarder Permit or Water Carrier Exemption, was received from the Interstate Commerce Commission by the Regulatory Reports Review Staff, GAO, on November 3, 1980. The purpose of publishing this notice is to inform the public of such receipt and action taken by GAO.

Interstate Commerce Commission

The Interstate Commerce Commission requested an extension clearance of Form OP–1, Application for Motor or Water Carrier Certificate of Permit, Brokerage License, Freight Forwarder Permit or Water Carrier Exemption. We had granted a conditional clearance on Form OP–1 on June 12, 1980, and limited the clearance to December 31, 1980. (See 45 FR 45960)

We were informed by a letter from ICC dated October 30, 1980, that the Commission will be unable to complete its rulemaking Ex Parte No. 55 (Sub No. 43) by the November 15 deadline established by GAO for resubmission of Form OP–1 for clearance. Therefore, ICC has requested an extension of 120 days of the present form to allow them sufficient time to complete the final rules, design the form, obtain the necessary clearance and print the new form. We agreed to extend our clearance of the present form for 120 days. The new expiration date of this clearance is April 30, 1981.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–36765 Filed 11–24–80; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76G-0191]

Austin Hansen Associates, Inc.; Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the withdrawal without prejudice of a petition proposing that *Thamnidium elegans* mold for use in aging of meat be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Austin Hansen Associates, Inc., 26 E. Andrews Dr. NW., Atlanta, GA 30305, has withdrawn its petition (GRASP 5G0054), notice of which was published in the **Federal Register** of September 7, 1976 (41 FR 37657) proposing that *Thamnidium elegans* molds for use in aging of meat be affirmed as GRAS.

Dated: November 14, 1980.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 80-36667 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76F-0096]

Calor Agriculture Research, Inc.; Filing of Petition for Food Additive Permitted in Feed and Drinking Water of Animals

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Calor Agriculture Research, Inc., has filed a petition proposing that the food additive regulations be amended to provide for safe use of fermented ammoniated condensed whey in liquid animal feeds.

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: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (MF-3655) has been filed by Calor Agriculture Research, Inc., 207 Fourth St., P.O. Box 190, Luxemburg, WI 54217, proposing that § 573.450 *Fermented ammoniated condensed whey* (21 CFR 573.450) be amended to provide for use of the additive in free-choice liquid feed supplements for cattle. The regulation currently provides for mixing the additive with grain, roughage, or grain and roughage before feeding to cattle.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 17, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36668 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

Small Business Participation; Notice of Open Meeting

Correction

In FR Doc. 80-34717, appearing on page 74062 in the issue of Friday, November 7, 1980, the "DATE" paragraph should read, "This meeting will be held at 1:30 p.m., Wednesday, December 17, 1980.".

BILLING CODE 1505-01-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently in part by 44 FR 35297, June 19, 1979) is amended to reflect the complete reorganization of the National Institute on Drug Abuse, ADAMHA. The reorganization accomplishes the following: (1) establishes an Office of Special Populations, an Office of Grants and Contracts, a Division of Prevention and Treatment Development, and a Division of Training; (2) abolishes the Division of Resource Development; (3) retitles the Office of Program Support to be the Office of Management, the Office of Medical and Professional Affairs to be the Division of Medical and Professional Affairs, the Office of Extramural Project Review to be the Office of Extramural Policy and Project Review, and the Division of Scientific and Program Information to be the Division of Data and Information Development; and (4) modifies the functional statements for the entire Institute. The reorganization also provides the Director of NIDA support in exercising that official's leadership role through three Associate Directors, who will serve as operational heads for the following specified areas: (1) knowledge development, encompassing the Divisions of Data and Information Development, Research, and Prevention and Treatment Development; (2) services and training, encompassing the Division of Community Assistance Training, and Medical and Professional Affairs; and (3) administration, encompassing the Offices of Management and Grants and Contracts.

Section HM-B, Organization and Functions, is amended as follows:

Delete all functional statements for the *National Institute on Drug Abuse (HMH)* and substitute the following:

National Institute on Drug Abuse (HMH)

Provides leadership, policies, and goals for the Federal effort in the prevention, control, and treatment of narcotic addiction and drug abuse, and the rehabilitation of affected individuals. In carrying out these responsibilities the Institute: (1) conducts and supports research on the biological, psychological, sociological and epidemiological aspects of narcotic addiction and drug abuse; (2) supports the training of professional and paraprofessional personnel in prevention, treatment and control of drug abuse; (3) conducts and supports research on the development and improvement of drug abuse services delivery, administration, and financing and supports services programs and projects; (4) collaborates with and provides technical assistance to State

drug abuse authorities, and supports State and community efforts in planning, establishing, maintaining, coordinating and evaluating more effective narcotic addiction and drug abuse programs; (5) collaborates with provides assistance to, and encourages other Federal agencies, national, foreign, State and local organizations, hospitals, and volunteer groups to facilitate and extend programs for the prevention of narcotic addiction and drug abuse, and for the care, treatment, and rehabilitation of drug abusers; and (6) carries out administrative and financial management, policy development, planning and evaluation, and public information functions which are required to implement such programs.

Office of the Director (HMH1)

(1) Provides leadership, direction, and policy in the development of Institute goals, priorities, policies, and programs; and serves as the focal point for the Department's efforts on drug abuse; (2) provides overall program coordination; (3) conducts and coordinates Institute interagency, intergovernmental, and international activities, including liaison with the regional offices; (4) provides advice and guidance on legislation, statutes and regulations related to all aspects of drug abuse treatment and prevention; (5) assesses the impact of Institute programs; (6) provides support to the Institute in various areas of administrative management, equal employment opportunity, and in program development, policy analysis, and legislative analysis; and (7) provides correspondence control services for the Institute.

Office of Extramural Policy and Project Review (HMH14)

(1) Provides leadership and develops recommendations on the formulation of program policies related to Institute extramural activities; (2) plans, administers and coordinates peer and objective review of grant applications and contract proposals; (3) develops Institute review policies and procedures, provides orientation and guidance on such policies and procedures, and monitors the review process to ensure quality of review and conformance to policy; (4) recommends nominees for review groups; (5) administers the committee management function; (6) collects and analyzes data relating to the review of grant applications and contract proposals, and makes recommendations, as necessary, for changes in Institute committee structure and/or referral guidelines; (7) collaborates with other Institutes and the Office of the Administrator to insure adequate exchange of information and optimum effectiveness of the review process; (8) participates in the review of proposed HHS, PHS, and ADAMHA policies and documents affecting peer and objective review and extramural programs; and (9) coordinates Institute activities under the Privacy Act and for reports clearance.

Office of Program Development and Analysis (HMH13)

(1) Develops program plans and monitors progress toward established objectives; (2) analyzes program policy and activities and develops recommendations for significant program changes; (3) develops Institute program evaluation policy and plans in conjunction with the annual development of the Institute's budget; (4) develops data requirements pertinent to planning and evaluating program activities; and (5) develops policy recommendations and proposals for integrating basic and applied research findings into the Institute's service delivery programs.

Office of Special Populations (HMH18)

(1) Serves as focal point for Institute program and strategy developmental activities on behalf of special populations including children and youth, women, racial/ethnic minorities, native Americans, and the elderly; (2) identifies the drug related problems of these special populations; (3) works with staff and line components of the Institute to assure that the drug related problems of special populations receive appropriate consiseration in the policies, programs, and distribution of resources of the Institute; and (4) acts as NIDA liaison with Federal, State, and local government agencies, Congress, special interest groups and private organizations concerned with drug abuse among special populations by (a) advising the Director and senior staff on trends and issues in drug abuse among special populations; and (b) interpreting NIDA policy on matters relating to special population drug abuse.

Office of Communications and Public Affairs (HMH17)

(1) Provides for the communications and public affairs aspects of NIDA's programs by establishing and maintaining relationships with the media, professional and citizen organizations and public interest groups, and sponsorship of special events; (2) serves as central liaison and coordinating point for NIDA on all communications and public affairs projects and activities, and assures that these activities are in accord with NIDA goals; (3) reviews and clears publications, press releases, and other material of a public information nature, and obtains further review and clearance of these materials from higher echelon; (4) advises the Director on policy matters ralated to NIDA communications and public affairs activities; (5) coordinates NIDA activities under the Freedom of Information Act and insures the availability of information to the public; (6) operates the National Clearinghouse for Drug Abuse Information which collects, stores, and disseminates drug abuse scientific and technical information to the public and to other government agencies; and (7) operates a resource center of books, periodicals, films, and records relating to drug abuse research and prevention.

Office of Management (HMH15)

(1) Provides or coordinates the provision of administrative management support to the Institute in such areas as (a) financial management, including budget and accounting, (b) administrative services, and (c) personnel management; (2) develops administrative management policies, procedures and guidelines, and conducts management studies of Institute programs and operations; (3) maintains liaison with the management staff of the Office of the Administrator and implements within the Institute general management policies prescribed by ADAMHA and higher authorities.

Office of Grants and Contracts (HMH16)

(1) Develops, implements and coordinates Institute procedures for the management of grants and contracts; (2) provides guidance to Institute staff and extramural awardees on the management and administrative aspects of grant and contract programs; (3) reviews grant applications, operating programs, and reports of expenditures, to insure compliance with grant managment policies and procedures; (4) negotiates, executes, and administers the Institute's contracts and reimbursable agreements; (5) prepares reports and maintains records relating to grant and contract applications and awards; (6) reviews and responds to audit reports submitted to higher echelons; and (7) represents the Institute in activities to implement policies related to grants and contracts management.

Division of Data and Information Development (HMH9)

(1) Coordinates Institute development and implementation of new information

and data gathering systems; (2) permanently manages a variety of fully operational drug abuse information systems initially developed by Institute components; (3) obtains necessary clearances from higher echelons for new information systems; (4) responsible for the design, development, operation, and maintenance of Institute drug abuse management information emanating from Federal/non-Federal drug abuse prevention and treatment efforts; (5) provides periodic and special reports and analyses for operational and planning purposes; and (6) provides consultation to and liaison with Institute staff and other Federal, State and private agencies concerned with information programs on drug abuse.

Division of Research (HMH3)

(1) Plans, develops, and administers a broad extramural program of biomedical, psychosocial, behavioral, and basic clinical research which seeks to develop new knowledge concerning the mechanisms underlying drug abuse and its causes, hazards, treatment, and prevention; (2) through its intramural research program, carries out fundamental biomedical, psychosocial, behavioral, and clinical research related to the causes, hazards, treatment, and prevention of drug abuse in experimental laboratory settings. Supports basic and clinical studies designed to determine the neurological and biochemical effects of newly developed pharmacological agents; (3) disseminates research information, promoting its exchange between researchers, planners, and the field through consultations, conferences, committees, and publications; (4) conducts studies to develop new methodologies for testing the abuse potential of new compounds and performs such tests as deemed appropriate; and (5) supports training to increase the quantity, quality, and utilization of skilled basic research investigators in the field of drug abuse.

Division of Prevention and Treatment Development (HMH4)

(1) Plans, develops, and administers a comprehensive program of applied research, social policy analysis, technology transfer, and prevention capacity building to further the development of drug abuse prevention nd treatment; (2) evaluates the efficacy of accepted as well as new prevention and treatment techniques; (3) conducts research designed to test and develop the potential of new prevention/treatment intervention approaches, models, and strategies to meet the needs of both active and prospective drug abuse treatment clients; (4) disseminates the findings from ongoing and completed applied research projects to prevention and treatment programs at State and local levels; (5) develops materials to assist the field in the application of new techniques; and (6) supports a system of technical assistance to the States, local agencies, and community groups to aid in the development and implementation of prevention projects.

Division of Community Assistance (HMH7)

(1) Plans, develops and administers the Institute's treatment and rehabilitation programs; (2) assumes primary Institute responsibility for the rendering of technical assistance on treatment needs to States; (3) insures the development and implementation of, and compliance with, quality treatment standards at reasonable cost; (4) initiates and administers programs for the treatment and rehabilitation of drug dependent persons within the criminal justice system; and (5) monitors and maintains the management efficiency of treatment projects.

Division of Training (HMH2)

(1) Plans, develops, and supports programs to train professional and paraprofessional human resources in the prevention, treatment and control of drug abuse, including training in special group drug abuse programs; (2) develops and conducts training courses for U.S. Attorney staffs, HHS regional office personnel, and Institute staff responsible for implementation of narcotic addict treatment programs; (3) provides assistance to Federal, State, and local agencies and nonprofit organizations in the development of human resources and training programs; (4) develops new training strategies and programs as appropriate to trends in human resource utilization, and (5) supports the nationwide dissemination of professional and paraprofessional resources through conferences, committees, and publications.

Division of Medical and Professional Affairs (HMH8)

(1) Develops and implements medical/professional standards and policy, and monitors the registration and compliance of physician/programs under such guidelines; (2) conducts studies and analyses of the medical and non-medical use of controlled substances, the prescribing of such substances by physicians, and their diversion from legitimate medical channels; (3) advises appropriate Federal agencies on the prevention of non-medical use of licitly manufactured psychoactive drugs, including the scheduling and rescheduling of psychoactive drugs and the establishment of standards for the appropriate prescribing of these drugs; (4) assesses the medical need for controlled substances and provides such information to appropriate Federal agencies; and (5) serves as Institute liaison with the medical/professional community and with other Federal agencies concerned with the utilization and control of psychoactive substances.

Dated: November 17, 1980.

Patricia Roberts Harris,

Secretary.

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Health Resources Administration and Health Services Administration; Statement of Organization, Functions, and Delegations of Authority

This **Federal Register** notice amends two chapters within Part H (Public Health Service) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services: Chapter HR (Health Resources Administration) and Chapter HS (Health Services Administration).

Part H, Chapter HR (Health Resources Administration) of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health and Human Services (43 FR 39436, September 5, 1978, as amended most recently at 45 FR 47245, July 14, 1980) is amended to delete from the functional statement for the Bureau of Health Professions reference to the administration of an insured loans program and to abolish the Division of Health Professions Training Support within the Bureau of Health Professions. These activities are being transferred to a newly established Bureau of Health Personnel Development and Service within the Health Services Administration.

Sec. HR-B, *Organization and Functions,* is amended as follows:

(1) *Under the Bureau of Health Professions (HRM)* amend item (5) by changing the comma to a semicolon and deleting "and administers a program of insured loans to students enrolled in health professions schools;".

(2) Delete the *Division of Health Professions Training Support (HMR6)* in its entirety.

Delete Sec. HR-D, *Delegations of Authority,* in its entirety and substitute the following:

Sec. HR-D, *Delegations of Authority*

All delegations of authority to the Administrators Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, excluding the program authorities pertaining to the functions heretofore assigned to the Division of Health Professions Training Support, shall continue in effect pending further redelegation. All delegations and redelegations of authority to officers or employees of the Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect in them, pending further redelegation.

Part H, Chapter HS (Health Services Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 10463, March 20, 1974, as amended most recently at 44 FR 56989, October 3, 1979) is amended to establish a new Bureau of Health Personnel Development and Service which will carry out the health professions scholarship and student assistance programs formerly administered by the Division of Health Professions Training Support within the Bureau of Health Professions, Health Resources Administration, and also the National Health Service Corps Program formerly administered by the Program Office for National Health Service Corps within the Bureau of Community Health Services, Health Services Administration. The amendment transfers the functions of the Division of Emergency Medical Services from the Bureau of Medical Services to the Bureau of Community Health Services and realigns most of the remaining functions within the Bureau of Medical Services. Further, the amendment updates the order of succession to the position of Administrator, Health Services Administration, during the absence or disability of the Administrator or in the event of a vacancy in that office.

Sec. HS–B, *Organization and Functions,* is amended as follows:

(1) Delete the functional statements of the *Bureau of Medical Services (HSM)* in their entirety and substitute the following:

Bureau of Medical Services (HSM). The Bureau of Medical Services provides direct health care services and support for such services to certain legal beneficiaries of the Public Health Service, including meeting the occupational health needs of Federal employees, by providing: (a) comprehensive direct health care for designated Federal beneficiaries and selected community goups; (b) occupational health care and safety services for Federal employees; (c) training for health services personnel; and (d) intramural clinical and health services research.

Office of the Director (HSM1). (1) Provides leadership and general direction to Bureau activities, including Equal Employment Opportunity and the control of written communication, and provides guidance and coordination to each major Bureau component by acting as a central point of reference for program continuity and information; (2) establishes Bureau policies, goals, and objectives; (3) coordinates and evaluates development and progress of the Bureau activities; (4) develops and directs a comprehensive medical program for prisoners in Federal prisons and correctional institutions; (5) maintains relationships with other HHS operating agencies, other Federal agencies, State and local governments, consumer groups, and national organizations concerned with health affairs; (6) administers a comprehensive medical program for military personnel and eligible dependents of the Coast Guard; and (7) directs and coordinates the direct health and medical services to authorized beneficiaries, including the resources necessary to provide services.

Office of Program Support (HSM13). Provides staff support to the Bureau Director for: (1) the development, coordination, and evaluation of administrative program, policies and procedures; (2) the conduct and coordination of the Bureau's financial management and materiel management responsibilities; (3) participation in administrative staff recruitment, training and assignment; and (4) provision of consultative services to and continuing liaison with other programs of the PHS.

Office of Program Development (HSM14). Provides staff support to the Bureau Director for: (1) program planning and evaluation, including development of improved methodologies for planning and evaluation; (2) consultation, coordination and guidance in policy development, implementation, and evaluation of health delivery programs throughout the Bureau; and (3) the formulation, implementation, coordination, and evaluation of legislation, regulations, policies, instructions, and procedures as they affect the Bureau.

Office of Health Professional Services (HSM15). The Office of Health Professional Services plans, directs, coordinates and evaluates the delivery of health professional services within the Bureau's medical facilities. Specifically: (1) provides leadership, guidance, and coordination for professional and technical health manpower development responsibilities; (2) plans, directs and coordinates the health education and training programs for the Bureau; and (3) directs and provides oversight to the recruitment and staffing program, and assures the professional adequacy of resources necessary to the effective health services delivery program for beneficiaries and patients throughout the system of medical facilities; and (4) provides leadership, guidance, and coordination for the research activities of the Bureau.

Office of Health Systems Management (HSM16). The Office of Health Systems Management is responsible for coordinating and implementing comprehensive management, administrative and technical programs to insure the continued operation of the PHS hospital and clinic system. Specifically: (1) assures that the PHS hospital and clinic system conforms and contributes to national health policy; (2) directs and coordinates the administrative operations of health system financial and resource management activities; (3) develops standards and objectives for acceptable efficiency levels and evaluates the effectiveness of health systems programs and operations; (4) serves as a focal point for Third Party Reimbursement activities; (5) provides, in collaboration with the Office of the Assistant Secretary for Health, architectural and engineering services which include, but are not limited to, the development and/or coordination of: (a) modernization and construction projects, (b) the maintenance and repair program, (c) capital budgeting activities, (d) architectural planning programs, (e) guidelines for sharing patient care services, (f) biomedical engineering program, (g) energy conservation policies, (h) compliance requirements of fire, life safety, and Occupational Safety and Health Administration codes, and the related accreditation requirements of the Joint Commission on the Accreditation of Hospitals, and (i) environmental impact statements for construction projects; (6) plans, directs, coordinates and evaluates data processing and data collection activities for the Bureau's headquarters and field programs; and (7) designs, programs and implements new or revised data systems and procedures.

Office of Ambulatory Care (HSM17). (1) Assists in development and implementation of the ambulatory care programs throughout the Bureau in coordination with the Office of Health

Systems Management; (2) provides direction, assistance and guidance in respect to the administration of the outpatient medical facilities of the Bureau, including contract physician medical facilities, independent outpatient clinics, hospital-supervised outpatient clinics, and hospital ambulatory care programs; (3) has management control over the resources assigned to the freestanding ambulatory care clinics; (4) maintains continuing oversight and surveillance over these facilities in respect to staffing, contract and other requirements, problems in providing health services to beneficiaries, involvement in cooperative and/or collaborative community programs, and relationships with Federal and non-Federal agencies in the community; and (5) coordinates the actions taken in respect to these ambulatory care responsibilities with the specialized resources of the Bureau.

Division of Federal Employee Occupational Health (HSMA). (1) Provides consultation on, and stimulates the development of improved occupational health and safety programs throughout the Government; (2) evaluates upon request Federal agency occupational health services in relations to standards; (3) administers employee occupational health programs for other Federal agencies on a reimbursable basis; (4) conducts research studies, training and demonstration projects; (5) develops occupational medical standards and methods for Federal employee occupational health programs; (6) promotes activities designed to protect the working health and safety of Federal employees in order to maximize their productivity.

PHS Hospitals (HSMFM–HSMFV). Staten Island, Baltimore, Norfolk, New Orleans, Carville, Nassau Bay, San Francisco, Boston, and Seattle (1) Provides a comprehensive program of direct health care for designated Federal beneficiaries and selected community groups; (2) carries out the training of health services personnel; (3) conducts intramural and health services research; (4) plans and performs activities in support of and in cooperation with intra-agency and interagency sponsored community programs; and (5) provides administrative and professional support to outpatient clinics, as appropriate.

(2) Under the *Bureau of Community Health Services (HSP)* make the following changes:

(a) Delete the functional statement for the *Bureau of Community Health Services (HSP)* in its entirety and substitute the following:

Bureau of Community Health Services (HSP). The Bureau of Community Health Services serves as a national focus for efforts to improve the organization and assure delivery of health services to specified medically underserved groups or in medically underserved areas. To the maximum extent possible this is done in conjunction with the major health care financing programs. To this end, the Bureau: (1) facilitates the development of locally-based programs of health services delivery; (2) enhances the capacity of bureau supported health service programs for full participation in the major public health financing systems—Medicare and Medicaid; (3) administers programs providing specific services to specific populations including family planning, maternal and child health care, and migrant care; (4) directs programs, excluding the National Health Service Corps, which assure accessibility to health care in underserved areas; (5) improves quality and contains costs of services provided in bureau supported health service delivery programs; and (6) provides national leadership for assistance, guidance, and encouragement in the development, improvement, expansion, and integration of comprehensive area emergency medical services systems.

(b) Delete the title *"Program Office for National Health Service Corps (HSP14)"* from the heading of the overall functional statement for the Program Offices.

(c) Insert the following statement after the *Program Office for Maternal and Child Health (HSP15):*

Program Office for Emergency Medical Services (HSP1A). Under the direction of an Associate Bureau Director who is a member of the Bureau Director's immediate staff: The Program Office provides national leadership for assistance, guidance, and encouragement in the development, improvement, expansion, and integration of comprehensive area emergency medical services systems to meet the needs of States and local communities and other eligible entities.

To this end: (1) Serves as the focal point within the Department for the development of objectives, plans, and policies for all aspects of an emergency medical services systems program; (2) promulgates national standards and guidelines for emergency medical services systems; (3) coordinates emergency medical services systems activities within the Department and with Federal and other agencies, consumer groups, and professional organizations; (4) provides staff and support for the Interagency Committee on Emergency Medical Services; (5) collects, analyzes, catalogs and disseminates all data useful in the development and operation of emergency medical services systems; (6) provides budget authority and technical cooperation to the Health Resources Administration for implementation of emergency medical services systems research and training; (7) through the PHS Regional Offices, provides grants and contracts to States, communities, and other eligible entities in the planning, development, initial operation, and improvement and expansion of their emergency medical services systems and subsystems; (8) through the PHS Regional Offices and the Headquarters office, provides technical assistance and consultation to States, communities, and organizations in the development of emergency medical services systems and subsystems.

(3) Insert the following statements after the *Division of Monitoring and Analysis (HSPL):*

Bureau of Health Personnel Development and Service (HSR). The Bureau of Health Personnel Development and Service serves as a national focus for efforts to increase the availability of and the placement of health professionals in medically underserved areas, and in promoting a redistribution of health care professionals into health manpower shortage areas. This is accomplished in coordination with health service delivery programs administered by other organizations in the Public Health Service. To this end, the Bureau: (1) directs health professions scholarship and student assistance and training programs; (2) administers programs, including the National Health Service Corps, which assure accessibility to health care in underserved areas by arranging for health professionals to provide direct health services in health manpower shortage areas; (3) facilitates the integration of providers of health services into overall health delivery systems by providing national leadership in the development of assignments and professional productivity standards to improve quality of care.

Office of the Director (HSR1). (1) Directs the national health professions student assistance and development programs and activities for the medically underserved; (2) provides policy guidance and staff direction; (3) maintains liaison with other Federal and non-Federal organizations and agencies with health service and health professions educational responsibilities; (4) directs and coordinates human rights activities as they relate to civil rights, consumer representation, and equal employment opportunity. Coordinates

such activities with the Office of Health Resources Opportunity, HRA, and the Office of Equal Employment Opportunity, HSA; (5) provides correspondence control and records management; (6) directs, coordinates, and provides guidance in the Privacy Act and Freedom of Information inquiries and the handling of public and congressional inquiries; and (7) maintains liaison on matters affecting Bureau programs with HRA, and other DHHS operating agencies, other Federal agencies, consumer groups, national organizations concerned with health affairs, and State and local governments through the Regional Offices; and (8) reviews regulations and policies concerning student assistance and development programs with the National Advisory Council on Health Professions Education and the Nurse Training Council.

Office of Program Development and Evaluation (HSR12). Serves as the focal point for planning, evaluation, analysis, legislation, and program implementation activities, including the development and dissemination of program objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HSA, and PHS Regional Offices. Specifically: (1) Stimulates, initiates, guides, and coordinates program planning, reporting, and evaluation activities of the divisions and staff offices; (2) provides staff services to the Director for program planning and its relation to the budgetary process, congressional reports, and evaluation; (3) prepares the forward plan; (4) develops and implements evaluation programs; (5) provides staff services and coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development of legislative proposals, the analysis of existing and pending legislation, liaison with other agencies, and distribution of legislative materials, and (6) develops legislative implementation plans, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures.

Office of Data Management (HSR13). Serves as the focal point for system and information management. Specifically: (1) Directs, analyzes, designs, develops, implements, and monitors data systems, data collection activities, data analyses and interpretations; (2) represents the Director on systems and data matters external to the Bureau; (3) conducts training for staff on data systems; (4) interfaces with all data systems support organizations; and (5) coordinates data reporting to common PHS data systems.

Office of Program Support (HSR14). Serves as the focal point for planning, directing, coordinating, and evaluating Bureau-wide administrative and management activities; and maintains close liaison with officials of HSA, the Office of the Assistant Secretary for Health, and the Department on matters relating to management and administrative support activities. Specifically: (1) Provides or serves as liaison for providing program support services and resources, including procurement of equipment and supplies, printing, property, etc.; (2) directs, conducts, and coordinates manpower management activities and advises on the allocation of personnel resources; (3) provides organization and management analysis, develops policies and procedures for internal operation, and interprets and implements the Bureau's management policies, procedures, and systems; (4) develops and coordinates program and administrative delegations of authority activities; (5) develops and maintains manual issuances and conducts forms management; (6) coordinates the development and processing of Bureau contract procurement activities and maintains liaison with the Office of Contracts and Grants, HSA, and the Division of Material Management, Office of the Assistant Secretary for Health; (7) develops and carries out a full range of financial management activities, including development of the annual zero base budget; and (8) in cooperation with the Office of Personnel, HSA, coordinates personnel activities for the Bureau.

Division of Student Services (HSRA). Serves as the focal point for the Health Professions and Nursing Student Loan and Scholarship Program, the Exceptional Financial Need Scholarship Program, the Health Educational Assistance Loan and Loan Repayment Programs, the Health Professions and Nurse Education Loan Repayment and Loan Cancellation Programs, and the Cuban Refugee Health Professions Loan Program. Specifically: (1) Directs and administers these student assistance, training and support programs, including the awarding of loan and scholarship funds; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development and Evaluation; (3) monitors and assesses educational and financial institutions with respect to capabilities and management of Federal support for students; (4) provides guidance and technical assistance to Public Health Service staff in Regional Offices; (5) develops and conducts training activities for staff of educational and financial institutions and Regional Offices; (6) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (7) maintains liaison with the Office of General Counsel, the Office of the Inspector General, DHHS, components of the Department of Education, and the Department of defense and State agencies concerning student assistance; (8) develops, in coordination with the Office of Program Development and Evaluation, legislative proposals and related administrative and management information and control documents; (9) in consultation with the Division of Financing Services, coordinates financial aspects of programs with educational institutions; and (10) in coordination with the Office of Data Management, develops program data needs, formats, and reporting requirements, including collection, collation, analysis and dissemination of data.

Division of Financing Services (HSRB). Directs and coordinates the financial aspects of the programs and performs the grants management functions. Specifically: (1) Develops and operates fiscal services and maintains fiscal controls for obligations, collections, disbursements, repayments, cancellations, and close-out of open awards; (2) interprets policy and provides direction in the conduct of the bureau's grant activities; (3) develops, coordinates, and interprets financial policies, procedures, and plans; (4) reviews, evaluates, analyzes, and reports on program accomplishments in financial terms, evaluates audit reports, and makes financial recommendations; (5) provides guidance and technical assistance to participating educational institutions, financial institutions, communities, and Regional Offices with regard to financial reporting, accounting procedures, cancellation of loans, bankruptcies, and uncollectible student loans; (6) maintains liaison with the Internal Revenue Service (IRS) and provides information pertaining to applicable tax laws and IRS exceptions for the guidance of participating educational institutions and other program recipients; (7) administers the reimbursement program of the NHSC field stations; (8) maintains liaison with the Office of General Counsel and the Office of the Inspector General, DHHS, with respect to cases of fraud and

petitions of bankruptcy; (9) in coordination with the Office of Program Development and Evaluation, prepares legislative proposals and related administrative and management information and control documents; (10) coordinates the fiscal aspects of programs with the Bureau's Office of Program Support and with HSA's Office of Fiscal Services and the PHS and departmental financial management offices, and represents the Director as financial advisor with respect to the resolution of intra-agency or interagency accounting issues; and (11) in coordination with Office of Data Management, develops program data needs, formats and reporting requirements including collection, collation, analysis and dissemination of data.

National Health Service Corps (HSRC). (1) Directs nationwide efforts to improve the availability and distribution of health care delivery professional; (2) plans, directs, administers and coordinates clinical services and related professional health care activities at the national level; (3) in coordination with the Office of Program Development and Evaluation, develops legislative proposals and related administrative and management information and control documents; (4) directs and implements policies and long and short-range goals and objectives for programs and activities related to the National Health Service Corps (NHSC); (5) administers programs for: (a) recruitment and placement of volunteer health professionals and placement of NHSC Scholarship obligees; (b) Private Practice Option and Private Practice Grants for NHSC scholarship recipients; and (c) Start-up Loans for NHSC Sites; (6) relative to the NHSC activities, provides coordination with other programs providing health services, including voluntary, official, and other community agencies; establishes and provides liaison in program matters with Bureaus in the HSA, within the PHS, within the Department, and with other Federal agencies, consumer groups and national organizations concerned with health matters, and through the Regional Offices with State and local governments; (7) plans, develops, and implements assistance programs to: (a) improve the quality and effectiveness of patient care delivery systems for underserved population groups; and (b) improve the quality of staffing, and knowledge of specific types of health care delivery providers; and (8) in coordination with Office of Data Management, develops program data needs, formats, and reporting requirements including collection, collation, analysis and dissemination of data.

Division of Health Services Scholarships (HSRD). Serves as the Federal focal point for the Public Health Service Scholarship Training Program, the Physician Shortage Area Scholarship Program, and the NHSC Scholarship Program. Specifically: (1) Directs and administers these student assistance programs, including the recruitment, application, selection and awarding of scholarship funds and deferment and service monitoring systems in close coordination with NHSC; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development and Evaluation; (3) monitors obligatory service requirements and conditions of deferment for compliance; (4) provides guidance and technical assistance to PHS staff in Regional Offices and to staff of educational institutions; (5) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (6) maintains liaison with the Office of General Counsel and the Office of the Inspector General, DHHS; (7) in coordination with the Office of Program Development and Evaluation, prepares legislative proposals and related administrative and management information and control documents; (8) in consultation with the Division of Financing Services, coordinates financial aspects of programs with educational institutions; and (9) in coordination with the Office of Data Management, develops program data needs, formats, and reporting requirements including collection, collation, analysis and dissemination of data.

Sec. HS–C, *Order of Succession,* during the absence or disability of the Administrator or in the event of a vacancy in that Office, the first official listed below who is available shall act as Administrator, except that during a planned period of absence, the Administrator may specify a different order of succession:

(1) Deputy Administrator,

(2) Associate Administrator for Operations,

(3) Associate Administrator for Management,

(4) Director, Indian Health Service,

(5) Director, Bureau of Medical Services,

(6) Director, Bureau of Community Health Services, and

(7) Director, Bureau of Health Personnel Development and Service.

Delete Sec. HS–D *Delegations of Authority,* in its entirety and substitute the following:

Sec. HS–D, *Delegations of Authority.*

All delegations of authority to the Administrator, Health Services Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect pending further redelegation. All delegations and redelegations of authority to officers or employees of the Health Services Administration, including officers or employees transferred from the former Division of Health Professions Training Support within the Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect in them or their successors, pending furth redelegation.

Dated: November 14, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36729 Filed 11-24-80; 8:45 am]

BILLING CODE 4410-83-M

BILLING CODE 4410-84-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1044]

Solar Energy Advisory Committee and Energy Conservation Advisory Committee Charters

AGENCY: Solar Energy and Energy Conservation Bank, HUD.

ACTION: Notice of advisory committee charters.

SUMMARY: The Solar Energy Advisory Committee and the Energy Conservation Advisory Committee were established by the Solar Energy and Energy Conservation Bank Act, Title V of Pub. L. 96–294 (94 Stat. 719), to advise the Board of Directors of the Solar Energy and Energy Conservation Bank. In accordance with provisions of the federal Advisory Committee Act, 5 U.S.C. App. I § 1 et seq., the Secretary is publishing herewith charters for the advisory committees, duly approved by him as Chairman of the Board of Directors of the Bank.

FOR FURTHER INFORMATION CONTACT: R. Frederick Taylor, Manager, Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development, Room 6100, 451 Seventh Street, S.W., Washington, D.C. 20410 (202–755–5926).

SUPPLEMENTARY INFORMATION: There is appended hereto the text of the charters,

as approved by the Secretary on October 10, 1980.

Issued at Washington, D.C., October 10, 1980.

Moon Landrieu,

Secretary of Housing, and Urban Development and Chairman of the Board of Directors, Solar Energy and Energy Conservation Bank.

Energy Conservation Advisory Committee Charter

1. *Purpose.* This establishes the charter for the energy Conservation Advisory Committee as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, Pub. L. No. 92–463, 5 U.S.C. App.I § 1.

2. *Objectives, Scope and Duties.* The Energy Conservation Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to residential and commercial energy pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all the matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.* a. The Energy Conservation Advisory Committee is mandated by and established under the authority of Section 508(b) of the Solar Energy and Energy Conservation Bank Act, Pub. No. 96–294, 94 Stat. 719, 724.

b. The Energy Conservation Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Energy Conservation Advisory Committee shall be composed of five members who are not officers or employees of any governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: Consumers, financial institutions, builders, architectural or engineering interests, producers or installers of residential and commercial energy conserving improvement.

5. *Appointments.* A member serves in a representative capacity and is not considered a "Special Government Employee" (as defined by 18 U.S.C. 202).

a. Except as provided below, members are appointed by the Board to serve two year terms.

b. Those members representing the views of consumers and financial institutions shall be appointed for an initial term of three years.

c. The terms of members are automatically extended until new members are appointed.

d. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

e. The terms of all members shall automatically cease upon termination of the advisory committee.

6. *Chairperson.* The chairperson of the Energy Conservation Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Executive Vice President for Energy Conservation to attend every advisory committee meeting.

8. *Meetings.* The Energy Conservation Advisory Committee shall ordinarily convene in full session four times each year under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson.

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Energy Conservation Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, Section 552(b) of Title 5 U.S.C., covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

(3) A summary of matters discussed and the conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements; and

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Service.* The Bank's Executive Vice President for Energy Conservation shall provide staff support services for the Energy Conservation Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Executive Vice President for Energy Conservation.

10. *Estimated Support and Cost.* It is estimated that the annual operating cost of the Energy Conservation Committee will not exceed $50,000. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 1080 staff hours.

11. *Travel and Compensation.* a. Members of the Energy Conservation Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by Section 5703(b) of Title 5, United States Code.

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel time, during which they are engaged in the actual performance of duties vested in the advisory committee.

12. *Reports.* The Energy Conservation Advisory Committee shall submit before

the conclusion of each calendar year, an annual written report to the Board describing its membership, functions, and actions during the year. The advisory committee shall submit other written reports to the Board from time to time containing the recommendations and findings of the advisory committee.

13. *Expiration of Charter.* The Energy Conservation Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist.

14. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: October 10, 1980.

Solar Energy Advisory Committee Charter

1. *Purpose.* This establishes the charter for the Solar Energy Advisory Committee as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, Pub. L. No. 92–463, 5 U.S.C. App. I § 1.

2. *Objectives, Scope and Duties.* The Solar Energy Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to solar energy systems pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.* a. The Solar Energy Advisory Committee is mandated by and established under the authority of Section 508(b) of the Solar Energy and Energy Conservation Bank Act, Pub. L. No. 96–294, 94 Stat. 719, 724.

b. The Solar Energy Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Solar Energy Advisory Committee shall be composed of five members who are not officers or employees of any governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: Consumers, financial institutions, builders, architectural or engineering interests, solar energy industry.

5. *Appointments.* A member serves in a representative capacity and is not considered a "Special Government Employee" (as defined by 18 U.S.C. 202).

a. Except as provided below, members are appointed by the Board to serve two year terms.

b. Those members representing the views of consumers and financial institutions shall be appointed for an initial term of three years.

c. The terms of members are automatically extended until new members are appointed.

d. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

e. The terms of all members shall automatically cease upon termination of the advisory committee.

6. *Chairperson.* The chairperson of the Solar Energy Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Executive Vice President for Solar Energy to attend every advisory committee meeting.

8. *Meetings.* The Solar Energy Advisory Committee shall ordinarily convene in full session four times each year under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson.

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, Section 552(b) of Title 5 U.S.C., covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

(3) A summary of matters discussed and the conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements; and

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Services.* The Bank's Executive Vice President for Solar Energy shall provide staff support services for the Solar Energy Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Executive Vice President for Solar Energy.

10. *Estimated Support and Cost.* It is estimated that the annual operating cost of the Solar Energy Committee will not exceed $50,000. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 1080 staff hours.

11. *Travel and Compensation.*

a. Members of the Solar Energy Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by Section 5703(b) of Title 5, United States Code.

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel

time, during which they are engaged in the actual performance of duties vested in the advisory committee.

12. *Reports.* The Solar Energy Advisory Committee shall submit before the conclusion of each calendar year, an annual written report to the Board describing its membership, functions, and actions during the year. The advisory committee shall submit other written reports to the Board from time to time containing the recommendations and findings of the advisory committee.

13. *Expiration of Charter.* The Solar Energy Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist.

14. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: October 10, 1980.

[FR Doc. 80-36649 Filed 11-24-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 14, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 10, 1980.

Carol Shull,

Acting Chief, Registration Branch.

ILLINOIS

Will County

Joliet, *Joliet Municipal Airport,* 4000 W. Jefferson St.

INDIANA

Switzerland County

Vevay vicinity, *Wright, Thomas T., House, SW of Vevay on IN 56.*

KANSAS

Dickinson County

Chapman Vicinity, *Prospect Park Farm,* S of Chapman.

LOUISIANA

Tensas Parish

St. Joseph, *St. Joseph Historic District,* Roughly bounded by Panola Ave., Front, Hickory, 4th, and Pauline Sts.

MARYLAND

Carroll County

Eldersburg vicinity, *Brown, Moses, House,* SE of Eldersburg at 7604 Ridge Rd.

MISSISSIPPI

Bolivar County

Rosedale, *Grace Episcopal Church,* 203 Main St.

NEBRASKA

Buffalo County

Kearney, *Hanson-Downing House,* 723 W. 22nd St.

Dodge County

Fremont, *McDonald, J. D., House,* 310 E. Military Ave.

NEVADA

Carson City (independent city)

Bank Saloon, 418 S. Carson St.

Washoe County

Reno, *Virginia Street Bridge,* Spans Truckee River.

NEW JERSEY

Essex County

Newark and Belleville, *Branch Brook Park,* Roughly bounded by Belleville Park, W Washington and Clifton Aves., 6th and Orange Sts.

Union County

Plainfield, *Crescent Area Historic District,* Roughly bounded by Park, Prospect, and Carnegie Aves., 7th and Richmond Sts.

PENNSYLVANIA

COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Chester County.

COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Lancaster County.

COVERED BRIDGES OF SOMERSET COUNTY THEMATIC RESOURCES. Reference—see individual listings under Somerset County.

Allegheny County

Pittsburgh, *Allegheny Cemetery,* Roughly bounded by N. Mathilda and Butler Sts., and Penn, Stanton, and Mossfield Aves.

Beaver County

Ambridge, *Harmony Society Meetinghouse,* 1320 Church St.

Bucks County

Yardley vicinity, *Burroughs, John, House,* Wrightstown-Taylorsville Rd.

Centre County

Bellefonte vicinity, *New Western Penitentiary,* 6 mi. SW of Bellefonte on PA 64.

Blanchard vicinity, *Bechdel, Christian, II, House,* S of Blanchard on Liberty Twnshp. Rd. 14056.

Chester County

MERCER'S MILL COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES). Reference—see Lancaster County.

PINE GROVE COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES). Reference—see Lancaster County.

Downingtown vicinity, *Gibson's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SE of Downingtown.

Downingtown vicinity, *Larkin Covered Bridge (Covered Bridges of Chester County Thematic Resources)* N of Downingtown.

Honey Brook vicinity, *Sandy Hill Tavern,* PA 340.

Malvern vicinity, *Bartram's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SE of Malvern (also in Delaware County).

Marshallton vicinity, *Hannum, Col. John, House,* NE of Marshallton at 898 Frank Rd.

Modena vicinity, *Speakman No. 1 (Covered Bridges of Chester County Thematic Resources)* SW of Modena.

Modena vicinity, *Speakman No. 2, Mary Ann Pyle Bridge (Covered Bridges of Chester County Thematic Resources)* S of Modena.

New London vicinity, *Stevens, Linton, Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of New London.

West Grove vicinity, *Glen Hope Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove.

West Grove vicinity, *Rudolph and Arthur Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove.

Cumberland County

Mechanicsburg vicinity, *Bielman-Musselman-Urich House (Old Mansion Farm),* S of Mechanicsburg on Stumpstown and Lisburn Rds.

Delaware County

BARTRAM'S COVERED BRIDGE (COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES) Reference—see Chester County

Erie County

Fairview, *Sturgeon House,* 102 S. Garwood St.

Lancaster County

Brownstown vicinity, *Zook's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Brownstown.

Christiana vicinity, *Mercer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Christiana (also in Chester County).

Churchtown vicinity, *Pool Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Churchtown.

Churchtown vicinity, *Weaver's Mill Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Churchtown.
Columbia vicinity, *Forry's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia.
Columbia vicinity, *Seigrist's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia.
Denver vicinity, *Butcher's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Denver.
Ephrata vicinity, *Bitzer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SE of Ephrata.
Ephrata vicinity, *Keller's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Ephrata.
Intercourse vicinity, *Leaman Place Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Intercourse.
Kirkwood vicinity, *Jackson's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Kirkwood.
Kirkwood vicinity, *Pine Grove Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* (also in Chester County).
Kirkwood vicinity, *White Rock Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Kirkwood.
Lancaster, *Landis Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources).*
Lancaster vicinity, *Pinetown Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* E of Lancaster.
Lititz vicinity, *Buck Hill Farm Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Lititz.
Manheim, *Shearer's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources).*
Manheim vicinity, *Kaufman's Distillery Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim.
Manheim vicinity, *Risser's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim.
Manheim vicinity, *Shenk's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Manheim.
Pequea vicinity, *Colemanville Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Pequea.
Refton vicinity, *Lime Valley Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Refton.
Rothsville vicinity, *Erb's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Rothsville.
Soundersburg vicinity, *Herr's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Soudersburg.
Strasburg vicinity, *Neff's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Strasburg.
Terre Hill vicinity, *Red Run Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Terre Hill.
Washington vicinity, *Murry Site (36La183),* S of Washington.
Willow Street vicinity, *Baumgardner's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Willow Street.

Lebanon County

Lebanon, *Gloninger Estate,* 2511 W. Oak St.

Montgomery County

Bryn Mawr vicinity, *Mill Creek Historic District,* E of Bryan Mawr.
Gladwyne, *Gladwyne Historic Dictrict (Merion Square Historic District)* PA 23.
Lansdale vicinity, *Williams-Kindig House,* W of Lansdale on Welsh Rd.
Norristown vicinity, *Barley Sheaf Inn,* N of Norristown at 420 W. Germantown Pike.

Northampton County

Bath vicinity, *Allen Township Academy (George Wolf Academy),* School RD.

Philadelphia Country

Philadelphia, *Harrison, Alfred C., Stable,* 1713–1715 Rittenhouse St.

Somerset County

Berlin vicinity, *Beechdale Bridge (Covered Bridges of Somerset County Thematic Resources)* SW of Berlin.
Davidsville vicinity, *Packsaddle Bridge (Covered Bridges of Somerset County Thematic Resources).*
New Baltimore, *New Baltimore Bridge (Covered Bridges of Somerset County Thematic Resources).*
Shanksville vicinity, *Glessner Bridge (Covered Bridges of Somerset County Thematic Resources)* NW of Shanksville.
Somerset vicinity, *Barronvale Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset.
Somerset vicinity, *King's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset.
Somerset vicinity, *Walter's Mill Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Somerset.
Stoystown vicinity, *Trostletown Bridge (Covered Bridges of Somerset County Thematic Resources)* SE of Stoystown.
Tire Hill vicinity, *Shaffer's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Tire Hill.
Ursina vicinity, *Lower Humbert Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Ursina.

[FR Doc. 80–36532 Filed 11–24–80; 8:45 am]
BILLING CODE 4310–03–My

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 6, 1980, at 1:00 p.m. in the YMCA building, E. Potomac Street, Brunswick, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. Edwin F. Wesley, Jr., Brookmont, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minny Pohlmann, Dickerson, Maryland
Mrs. Margaret Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Donald H. Shannon, Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

Development Concept Plan, Great Falls, Maryland
Development Concept Plan, Cumberland/North Branch, Maryland
Development Concept Plan, Williamsport, Maryland
Abandoned Western Maryland Railroad Right-of-Way
C&O Canal Advisory Commission Extension Status
Parcourse Fitness Circuit Proposal
Cumberland Terminus Walkway
Brunswick Commuter Railroad Station Proposal.

The meeting will be open to the public. Any member of the public may file with the Commission, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301/739–4200.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: November 18, 1980.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 80-36697 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on December 10, 1980, at the Louisiana Department of Wildlife and Fisheries Building, 400 Royal Street, Room 220, New Orleans, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

Matters to be discussed at this meeting include:

1. Workshop session to review and work on comments of the draft General Management Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 220, New Orleans, Louisiana 70130, telephone area code 504-589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: November 14, 1980.

Jack Mackels,

Acting Regional Director, Southwest Region, National Park Service.

[FR Doc. 80-36696 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Proposed Supplemental Repayment Contract With the Central Utah Water Conservancy District; Availability of the Proposed Draft Supplemental Repayment Contract, Bonneville, Unit, Central Utah Project, Utah

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service announces the availability of a draft supplemental repayment contract with the Central Utah Water Conservancy District (CUWCD), Orem, Utah, to cover the increased costs of municipal and industrial (M&I) water resulting from the development of the Bonneville Unit of the Central Utah Project. Construction on the Bonneville Unit was initiated in 1967. The contract is written pursuant to the Reclamation laws and authorized under the Act of Congress approved April 11, 1956 (70 Stat. 105).

The Bonneville Unit will provide 99,000 acre-feet of M&I water for use in Salt Lake and Utah Counties. The CUWCD entered into a repayment contract on December 28, 1965, amended April 15, 1966, with the United States to repay the costs associated with the Bonneville Unit. That amended contract provides for repayment of about $102,403,000 of costs associated with M&I water development.

Total estimated costs have increased due to inflation since the execution of those contracts. Presently, a difference of about $250,000,000 exists between estimated construction costs allocated to M&I water development and the costs to be repaid under the existing contract, as amended. The facilities expected to be completed under eixsting contract terms could deliver less than 50 percent of the anticipated M&I yield for the project.

The supplemental contract will provide for the repayment of the additional costs which will be incurred to deliver the full amount of M&I water. The new contract provisions will apply only to the water supply to be repaid under the supplemental contract. The existing contract will remain in effect for repayment of the costs associated with the project irrigation and remaining M&I water supplies.

The terms and conditions of the proposed contract were approved as to form by CUWCD on November 13, 1980, but have not yet been approved by the Secretary of the Interior which will be necessary before the contract is executed.

The public is invited to submit written comments on the form of the proposed contract not later than December 15, 1980. The Commissioner of the Water and Power Resources Service will review comments submitted and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

Requests for copies of the proposed contract and comments on the contract should be addressed to the Regional Director, Water and Power Resources Service, Attention: 440, P.O. Box 11568, Salt Lake City, Utah 84147. All written correspondence concerning the contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: November 19, 1980.

Aldon D. Nielsen,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-36693 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 202]

Assignment of Hearings

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 144190 (Sub-9F), Story, Inc., now assigned for hearing on January 21, 1981 (1 day) at Nashville, TN in a hearing room to be later designated.

MC 123048 (Sub-462F), Diamond Transportation System, Inc., now assigned for hearing on January 22, 1981 (2 days) at Nashville, TN in a hearing room to be later designated.

MC 103051 (Sub-480F), Fleet Transport Company, Inc., now assigned for hearing on January 26, 1981 (5 days) at Nashville, TN in a hearing room to be later designated.

MC 145360 (Sub-8F), Thom's Transport Company, Inc., now assigned for hearing on January 27, 1981 (2 days) at Jacksonville, FL in a hearing room to be later designated.

MC 148020 (Sub-3F), Big "M" Transport, Inc., now assigned for hearing on January 29,

1981 (2 days) at Jacksonville, FL in a hearing room to be later designated.

MC 136605 (Sub-135F), Davis Bros. Dist., Inc., now being assigned for hearing on January 22, 1981 (2 days) at Portland, OR, location of hearing room will be designated later.

MC 34631 (Sub-6F), A. Arnold & Sons Transfer & Storage Co., Inc., now assigned for hearing on December 10, 1980 (1 day) at Columbus, OH in Room No. 426, Federal Building and U.S. Court House, 85 Marconi Blvd.

MC 135524 (Sub-48F), G. F. Trucking Co., now assigned for hearing on December 11, 1980 (2 days) at Columbus, OH in Room No. 426, Federal Building and U.S. Court House, 85 Marconi Blvd.

MC F-14171, Columbus Retail Merchants Delivery, Inc.—Purchase—Reed Lines, Inc., and MC 14251 (Sub-7F), Columbus Retail Merchants Delivery, Inc., now assigned for hearing on December 15, 1980 (5 days) at Columbus, OH in Room No. 426, Federal Building & U.S. Court House, 84 Marconi Blvd.

MC 140389 (Sub-57F), Osborn Transportation, Inc., now assigned for hearing on December 2, 1980 (2 days) at Atlanta, GA in ICC Room No. 401, 4th Floor, 1776 Peachtree Street, N.W.

MC 99848 (Sub-3F), J. F. Lux Trans, Co., Inc., now being assigned for hearing on January 7, 1981 (3 days) at at Boston, MA, location of hearing room to be designated later.

MC 111307 (Sub-11F), Overland Western Limited, now being assigned for hearing on January 20, 1981 (1 day) at Detroit, MI, location of hearing room will be designated later.

MC 147572F Marine Trucking, Inc., now being assigned for hearing on January 21, 1981 (3 days) at Detroit, MI, location of hearing room to be designated later.

MC 147398 (Sub-2F), A. T. Tucker, d.b.a. Hotshot Unlimited is transferred to Modified Procedure.

MC 146048 (Sub-3F), D. T. Auto Transport, Inc., now assigned for November 18, 1980 at Denver, CO, hearing cancelled and application dismissed.

MC 125985 (Sub-28F), Auto Driveaway Company, is dismissed.

MC C-8879 Bowman Transportation, Inc., now assigned for hearing on December 16, 1980 (4 days) at Louisville, KY in Room No. 273-D, Second Floor, Federal Building—Federal Plaza.

MC 119789 (Sub-700F), Caravan Refrigerated Cargo, Inc., now assigned for hearing on December 11, 1980 (1 day) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 133591 (Sub-101F), Wayne Daniel Truck, Inc., now assigned for hearing on December 12, 1980 (1 day) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC C-10770, State of Texas v. Mistletoe Express Service, now assigned for hearing on December 15, 1980 (3 days) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 138882 (Sub-370F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on December 18, 1980 (2 days) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 18121 (Sub-28F), Advance Transportation Company, is transferred to Modified Procedure.

MC 143662 (Sub-3F), Gene Viogt Trucking, Inc., now assigned for hearing on December 3, 1980 (3 days) at Madison WI is postponed to December 4, 1980 (2 days) at Madison WI, hearing room will be designated later.

MC 115523 (Sub-186F), Clark Tank Lines, Inc., now being assigned for hearing on January 13, 1980 (9 days) at Salt Lake City, UT, location of hearing room will be designate later.

MC 110380 (Sub-18F), Berschens of Madison, Inc., now being assigned for hearing on January 21, 1980 (3 days) at Milwaukee, WI, location of hearing room will be designated later.

MC 11592 (Sub-29F), Best Refrigerated Express, Inc., now being assigned for hearing on January 19, 1981 (3 days) at Omaha, NE, location of hearing room will be designated later.

MC 145359 (Sub-13F), Thermo Transport, Inc., now being assigned for hearing on January 13, 1981 (1 day) at Los Angeles, CA, location of hearing room will be designated later.

MC 147069 (Sub-3F), Cal Thermo Express, Inc., now being assigned for hearing on January 14, 1981 (3 days) at Los Angeles, CA, location of hearing room will be designated later.

MC 13651 (Sub-21F), Peoples Transfer, Inc., now being assigned for hearing on January 19, 1981 (1 week) at Sacramento, CA, location of hearing room will be designated later.

Ex Parte 371, in the Matter of Louis J. Amato, now being assigned for prehearing conference on January 7, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

Ex Parte, 369, in the Matter of John M. Nader, now being assigned for prehearing conference on January 6, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 125628 (Sub-5F), S. S. Baird & Sons, Limited, now being assigned for hearing on January 14, 1981 (3 days) at Portland, ME, location of hearing room will be designated later.

MC 43 (Sub-71F), Illinois Central Gulf Railroad Company—Abandonment—Between Columbia, and Silver Creek, MC now being assigned for hearing on January 6, 1981 (9 days) at Columbia, MS, location of hearing room will be designated later.

MC F-12730, Pacific Transportation Lines, Inc.—Purchase—Jackson Distribution Corp., and MC 142048 (Sub-7F), Pacific Transportation Lines, Inc., now being assigned for hearing on January 14, 1981 (3 days) at Buffalo, NY, location of hearing room will be designated later.

MC 140611 (Sub-1F), Harkema Express Lines, Inc., now being assigned for hearing on January 19, 1981 (4 days) at Buffalo, NY, location of hearing room will be designated later.

MC 60251 (Sub-13F), P & D Transportation, Inc., now being assigned for hearing on November 24, 1980 (2 days) at Providence, RI in Room No. 234, John O. Pastore Federal Bldg. and Post Office, 37 Exchange Towers.

MC 145152 (Sub-90F), Big Three Transporation, Inc., now being assigned for hearing on December 2, 1980 (1 day) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 134755 (Sub-208F), Charter Express, Inc., now assigned for hearing on December 3, 1980 (1 day) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 141092 (Sub-2F), E. R. Hopkins Truck Line, Inc., now assigned for hearing on December 4, 1980 (2 days) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 113908 (Sub-495F), Erickson Transport Corp., now being assigned for hearing on December 8, 1980 (1 week) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 87909 (Sub-32F), Kroblin Transportation Systems, Inc., now assigned for Prehearing Conference on December 8, 1980 at Washington, D.C., is canceled and application is dismissed.

MC 133485 (Sub-26F and 27F), International Detective Service, Inc. , now assigned for hearing on November 17, 1980 (5 days) at Providence, RI is canceled and application dismissed.

MC 56679 (Sub-167F), Brown Transport Corp., now assigned for Prehearing Conference on December 1, 1980 at Washington, D.C., is canceled and application dismissed.

MC C-8879, Bowman Transporation, Inc., v Central Motor Express, Inc., now assigned for hearing on December 16, 1980 (4 days) at Louisville, KY is postponed to January 6, 1981 (4 days) at Lousiville, KY.

MC 58902 (Sub-19F), Manley Transfer Company, Inc., now assigned for continued hearing on December 19, 1980 at Kansas City, MO will be held in the Midland Building, Conference Room, Sixth Floor, 1221 Baltimore Avenue.

MC 14138 (Sub-11F), Heavy Transport, Inc., now assigned for Prehearing Conference on January 14, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133194 (Sub-21F), Woodline Motor Freight, Inc., now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 109533 (Sub-128F), Overnite Transportation Company, now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 61264 (Sub-36F), Pilot Freight Carriers, Inc., now assigned for Prehearing Conference on January 9, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1977 (Sub-42F), Northwest Transport Service, Inc., now assigned for Prehearing Conference on January 9, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 120181 (Sub-17F), Main Line Hauling Co., Inc., now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 141108 (Sub-8F), D & C Express, Inc., now assigned for hearing on November 17, 1980 at Chicago, IL is transferred to Modified Procedure.
MC 134755 (Sub-208F), Charter Express, Inc., now assigned for hearing on December 3, 1980 at Kansas City, MO is transferred to Modified Procedure.
MC 106398 (Sub-958F), National Trailer Convoy, Inc., now assigned for hearing on November 17, 1980 at Orlando, FL is transferred to Modified Procedure.
MC 56679 (Sub-152F), Brown Transport Corp., now assigned for hearing on December 2, 1980 at Atlanta, GA is transferred to Modified Procedure.
MC 112304 (Sub-222F), Ace Doran Hauling & Rigging Co., now assigned for hearing on December 11, 1980 at St. Louis, MO is transferred to Modified Procedure.
MC 120427 (Sub-10F), Williams Transfer, Inc., now assigned for hearing on January 14, 1981 (3 days) at Lincoln, NE in a hearing room to be later designated.
MC 69224 (Sub-51F), H & W Motor Express Company, now assigned for hearing on January 19, 1981 (4 days) at Davenport, IA in a hearing room to be later designated.
MC 108119 (Sub-151F), E. L. Murphy Trucking Company, now assigned for hearing on December 8, 1980 at Birmingham, AL is transferred to Modified Procedure.
37507, Rates on Iron Ore, Randville to Escanaba via Iron Mountain, 37516, the Hanna Mining Company v. Chicago and North Western Transportation Company, et al., now assigned for hearing on January 26, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 115826 (Sub-479F), W. J. Digby, Inc., now assigned for hearing on December 4, 1980 at Denver, CO is transferred to Modified Procedure.
MC 127042 (Sub-304F), Hagen, Inc., now assigned for hearing on December 16, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 70151 (Sub-56F), United Trucking Service, Inc., now assigned for hearing on December 2, 1980 (9 days) at Detroit, MI will be held on December 2, 1980 in Room 1194, Patrick V. McNamara Building, 477 Michigan Avenue, December 3, 4, 5, 1980 in Room 895, Court House, 231 W. Lafayette, December 8, 1980 in Room 834, Court House, 231 W. Lafayette, December 9, 10, 11, 12, 1980 in Room 1090, Patrick V. McNamara Building, 477 Michigan Avenue.
MC 146874 (Sub-2F), Palwood Transportation, Inc., now assigned for hearing on November 19, 1980 at Chicago, IL is postponed indefinitely
MC 73165 (Sub-522F), Eagle Motor Lines, Inc., now assigned for hearing on December 5, 1980 (1 day) at Birmingham, AL in a hearing room to be later designated.
MC 119639 (Sub-20F), Inco Express, Inc., now assigned for hearing on November 19, 1980 at Portland, OR is canceled and application dismissed.
MC 145152 (Sub-90F), Big Three Transportation, Inc., now assigned for hearing on December 2, 1980 at Kansas City, MO is transferred to Modified Procedure.
MC 95540 (Sub-1105F), Watkins Motor Lines, Inc., now assigned for Prehearing Conference on November 7, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 60014 (Sub-132F), Aero Trucking, Inc., MC 2900 (Sub-424F), Ryder Truck Lines, Inc., now assigned for Prehearing Conference on December 17, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 60014 (Sub-190, Aero Trucking, Inc., now assigned for hearing on January 6, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
35021, the Sterling Colorado Beef Company v. The Atchison, Topeka & Santa Fe Railway Company, et al, now assigned for Prehearing Conference on December 2, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
37499, the Murray Ohio Manufacturing Company v. Louisville & Nashville RR Company, now assigned for Prehearing Conference on November 7, 1979 at Washington, D.C., is postponed to November 12, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 147942 (Sub-2F), M & L Truck Line, Inc., now assigned for hearing on December 2, 1980 (4 days) at Memphis, TN and continued to February 3, 1981 at Washington, D.C., and continued to March 3, 1981 (2 days) at Memphis, TN in a hearing room to be later designated.
MC 140094 (Sub-1F), Latin Express Service, Inc., now assigned for hearing on January 21, 1981 (3 days) at Miami, FL in a hearing room to be later designated.
MC 114552 (Sub-243F), Senn Trucking Company, now assigned for hearing on January 26, 1981 (1 day) at Jacksonville, FL in a hearing room to be later designated.
MC 136782 (Sub-12F), R.A.N. Trucking Company, now assigned for hearing on January 27, 1981 (1 day) at Pittsburgh, PA in a hearing room to be later designated.
MC 136782 (Sub-27F), R.A.N. Trucking Company, now assigned for hearing on January 28, 1981 (3 day) at Pittsburgh, PA in a hearing room to be later designated.
MC 125433 (Sub-302F), F–B Truck Line Company, now assigned for hearing on January 20, 1981 (1 day) at Chicago, IL in a hearing room to be later designated.
MC 110988 (Sub-414F), Schneider Tank Lines, Inc., now assigned for hearing on January 21, 1981 (3 day) at Chicago, IL in a hearing room to be later designated.
MC 119656 (Sub-63F), North Express, Inc., now assigned for hearing on January 26, 1981 (1 week) at Chicago, IL in a hearing room to be later designated.
MC 144069 (Sub-9F), Freightways, Inc., now assigned for hearing on January 22, 1981 (2 days) at Charlotte, NC in a hearing room to be later designated.
MC 45656 (Sub-26F), Anderson Truck Line, Inc., now assigned for hearing on January 26, 1981 (5 days) at Charlotte, NC in a hearing room to be later designated.
MC 106398 (Sub-938F), National Trailer Convoy, Inc., now assigned for hearing on January 20, 1981 (1 day) at Philadelphia, PA in a hearing room to be later designated.
MC 126551 (Sub-5F), Philboro Coach Corp., now assigned for hearing on January 21, 1981 (3 days) at Philadelphia, PA in a hearing room to be later designated.
MC 114211 (Sub-425F), Warren Transport, Inc., now assigned for Prehearing Conference on December 3, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 2202 (Sub-636F), Roadway Express, Inc., now assigned for Prehearing Conference on December 16, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 110525 (Sub-1319F), Chemical Leaman Tank Lines, Inc., now assigned for Prehearing Conference on December 17, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 73165 (Sub-513F), Eagle Motor Lines, Inc., now assigned for Prehearing Conference on December 18, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 73165 (Sub-519F), Eagle Motor Lines, Inc., now assigned for Prehearing Conference on December 18, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 135419 (Sub-1F), Container Carrier Corporation, now assigned for hearing on December 2, 1980 (7 days) at New Orleans, LA, at the holiday Inn, French Quarter, 124 Royal Street.
MC 22301 (Sub-29F), Sioux Transportation Co., Inc., now assigned for hearing on December 9, 1980 (9 days) at Chicago, IL in Room No. 1944C, 219 South Dearborn Street, Everett McKinley Dirksen Building.
MC 136012 (Sub-6F), Untied States Tranportation Inc., now assigned for hearing on December 15, 1980 (3 days) at Cincinnati, OH in Room No. 8017, Federal Building, 550 Main Street.
MC 144140 (Sub-45F), Southern Freightways, Inc., now assigned for hearing on November 13, 1980 at Orlando, FL is transferred to Modified Procedure.
MC 90794 (Sub-7F), Di-Jub Leasing Corp., now assigned for hearing on January 7, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 111079 (Sub-3F), H. W. Jones & Son, Inc., now assigned for hearing on January 7, 1981 (3 days) at Cincinnati, OH in a hearing room to be later designated.
FF–523, Henry Ortiz, now assigned for hearing on January 12, 1981 (5 days) at Cleveland, OH in a hearing room to be later designated.
MC 84428 (Sub-22F), Chester Jackson Co., now assigned for hearing on February 3, 1981 (4 days) at New York, NY in a hearing room to be later designated.
MC 125299 (Sub-7F), Witte Brothers Exchange Incorporated, now assigned for hearing on December 4, 1980 at St. Louis, MO is transferred to Modified Procedure.
FF–521F, Harbour Forwarding Company, Inc., now assigned for hearing on December 9, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 114211 (Sub-470F), Warren Transport, Inc., is transferred to Modified Procedure.

MC 146892 (Sub-13F), R. & L. Transfer, Inc., now assigned for hearing on January 21, 1981 (3 days) at Columbus, OH in a hearing room to be later designated.
MC 44783 (Sub-11F), the Mahoning Express Company, now assigned for hearing on January 26, 1981 (5 days) at Columbus, OH in a hearing room to be later designated.
MC 83539 (Sub-530F), C & H Transportation Inc., now assigned for Prehearing Conference on September 3, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 107605 (Sub-23F), Advance-United Expressways, Inc., now assigned for hearing on December 2, 1980 (9 days) at St. Paul, MN is postponed to January 27, 1981 (9 days) at St. Paul, MN in a hearing room to be later designated.
MC 142715 (Sub-95F), Lenertz, Inc., now assigned for hearing on January 9, 1981 (1 day) at St. Paul, MN in a hearing room to be later designated.
MC 108223 (Sub-31F), Century-Mercury Motor Freight, now assigned for hearing on January 12, 1981 (1 week) at St. Paul, MN in a hearing room to be later designated.
MC 103373 (Sub-8F), Howard Martin, Inc., now assigned for hearing on January 6, 1981 (1 day) at Chicago, IL in a hearing room to be later designated.
MC 121123 (Sub-3F), Leoni Motor Express, Inc., now assigned for hearing on January 12, 1981 (2 days) at Chicago, IL in a hearing room to be later designated.
MC C-10339, Mclean Trucking Company And Wolverine Express, Inc.—Investigation And Revocation of Certificates, now assigned for hearing on January 14, 1981 (3 days) at Chicago, IL in a hearing room to be later designated.
MC 107012 (Sub-392F), North American Van Lines, Inc., now assigned for hearing on January 12, 1981 (1 week) at Chicago, IL is transferred to Modified Procedure.
MC 105120 (Sub-20F), Freightways Express, Inc., now assigned for hearing on December 9, 1980 at Memphis, TN will be held in Room No. 936, Federal Building, 167 North Main Street.
MC 147848 (Sub-2F), A-1 Espress Chartered Bus Service, Inc., now assigned for hearing on December 10, 1980 (3 days) at Indianapolis, IN will be held in Room 402, Old Federal Building, 56 E. Ohio Street.
MC 101474 (Sub-26F), Red Top Trucking Company, Inc., now assigned for hearing on December 15, 1980 (5 days) at Indianapolis, IN will be held in the Federal Building, 575 N. Pennsylvania Street, Room 284.
MC 106863 (Sub-1F), Bacon Motor Express, Inc., now assigned for hearing on December 9, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 106863 (Sub-1F), Bacon Motor Express, Inc., now assigned for Prehearing Conference on November 7, 1980 is transferred to Modified Procedure.
MC 32882 (Sub-124F), Mitchell Bros. Truck Lines, now assigned for hearing on January 13, 1981 (4 days) at Salt Lake City, UT in a hearing room to be later designated.
124160 (Sub-38F), Savage Brothers, Incorporated, now assigned for hearing on January 19, 1981 (1 week) at Salt Lake City, UT in a hearing room to be later designated.
MC 148095F, Rojan Freight Lines Limited, now assigned for hearing on January 13, 1981 (9 days) at Detroit, MI in a hearing room to be later designated.
MC 86247 (Sub-24F), I.C.L. International Carrier Limited, now being assigned for hearing on January 26, 1981 (3 days) at Detroit, MI, location of hearing room will be designated later.
MC 732 (Sub-16F), Albina Transfer Co., Inc., now being assigned for hearing on January 21, 1981 (3 days) at Portland, OR, location of hearing room will be designated later.
MC 133101 (Sub-5F), Peninsula Air Delivery, now being assigned for hearing on January 26, 1981 (3 days) at San Francisco, CA, location of hearing room will be designated later.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36710 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. 11344 and 11349. Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(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, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed on or before January 9, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 14, 1980.

By the Commission Review Board No. 5, members Krock, Taylor, and Williams (Board Member Taylor votes to approve the proposed transfer in MC-14498F, but considers the removal of the restriction, which would authorize transferee to perform an entirely new and different service from that conducted by transferor, to be outside the scope of a proceeding under 49 U.S.C. 11344).

MC F-14498F, filed October 31, 1980. ARLEDGE TRANSFER, INC. (Arledge) (1100 Arnold Drive, West Burlington, IA 53632)—purchase (portion)—ROCK

ISLAND MOTOR TRANSIT COMPANY (Rock Island) (1119 High Street, Des Moines, IA 50308) (Bernard C. Chaitman, Assignee for the Benefit of the Creditors of the Rock Island Motor Transit Company). Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Arledge seeks authority to purchase a portion of the interstate operating rights of Rock Island. James G. Arledge is the major stockholder of Arledge and, as a condition to the approval and authorization of this transaction, will be required to join in this application as person in control. Arledge seeks to purchase the interstate operating rights contained in Rock Island's certificates which authorize the transportation, as a motor common carrier, over regular routes, as follows: (1) MC–29130 (portion), *general commodities,* (except those of unusual value, livestock, nitroglycerin, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas, City, MO, and Des Moines, IA, serving the intermediate points of Cameron, MO, and Inidanola, IA, and the off-route points of Kansas City, KS: from Kansas City over alternate U.S. Hwy 69 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Des Moines, and return over the same route, the operations authorized are subject to such further limitations, restrictions, or modifications as the Commission may find it necessary to impose in order to ensure that the service should be auxilliary of or supplementary to the train service of the Rock Island and Pacific Railroad Company hereinafter referred to as the C.R.I. & P.R.R. and shall not unduly restrain competition; and (2) MC–29130 (Sub-No. 44), *general commodities* (except those of unusual value, commodities in bulk, and those requiring special equipment), to and from points in the Kansas City, MO-Kansas City, KS commerical zone as defined in the *Kansas City, MO–KS City Commercial Zone,* 31 M.C.C. 5 as intermediate or off-route points in connection with said carrier's previoulsy authorized regular-route operations, the service to be performed by said carrier shall be limited to service which is auxilliary to, or supplemental or, rail service of the Chicago, Rock Island and Pacific Railway Company (Joseph B. Fleming and Aaron Colnon Trustee) hereinafter called the Railway; all contractural arrangements between said carrier and the railway shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary in order that such arrangements shall be fair and equitable to the parties; and such further specific conditions as the Commission, in the future, may fine it necessary to impose in order to restrict said carrier's operations to service which is auxilliary, or supplementary of, rail service. Arledge also seeks removal of the restrictions which limit the service to that which is auxiliary to or supplemental of the rail service of vendor's rail parent and other substantial motor for rail restrictions. Removal of restrictions from operating authority may be consistent with the public interest and is within the scope of a preceeding under 49 U.S.C. 13344. In this instance, the restrictions have no applicability to vendee and would otherwise defeat the purpose of the transaction. Therefore, they will be removed upon consummation of the transaction, and the scope of the authority to be transferred to Alredge is as follows: (1) *general commodities* (with stated exceptions), between Kansas City, MO, and Des Moines, IA, serving the intermediate points of Cameron, MO, and Indianola, IA, and the off-route point of Kansas City, KS; from Kansas City over alternate U.S. Hwy 69 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Des Moines, and return over the same route; and (2) *general commodities* (with stated exceptions), serving points in the Kansas City, MO-Kansas City, KS commercial zone as intermediate or off-route points in connection with carrier's previously authorized regular-route operations. Arledge is authorized to operate as a motor common carrier pursuant to certificates issued in MC–101186 and sub-numbers thereunder. Condition: Authorization and approval of this transaction and the issuance of the effective notice is conditioned upon the prior receipt by the Commission of an affidavit signed by James G. Arledge, stating that he is the person in control of Arledge Transfer, Inc., through stock ownership, and that he joins in this application.

Note.—Application for temporary authority has been filed. Applicant intends to join the subject authority with its presently authorized regular-route operations.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36767 Filed 11–24–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier 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 these 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 on or before January 9, 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 January 26, 1981, and 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 appliant'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. OPI–076

Decided: November 14, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2900 (Sub-441F), filed November 5, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 123310 (Sub-22F), filed October 22, 1980. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. 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 152220 (Sub-1F), filed November 3, 1980. Applicant: FLEET FORWARDERS, INC., 26 Third St., Suite 470, San Francisco, CA 94103. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006. 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 152560F, filed November 3, 1980. Applicant: JIM CHAPMAN TRUCKING, INC., 217 Charlotte St., York, SC 29745. Representative: Steven W. Gardner, 3574 Piedmont Road, Atlanta, GA 30305. 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.

Volume No. OP1–078

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 118561 (Sub-20F), filed November 6, 1980. Applicant: HERBERT B. FULLER d.b.a. FULLER TRANSFER COMPANY, 212 East St., Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. 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 138000 (Sub-79F), filed November 5, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. 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 150170 (Sub-3F), filed November 7, 1980. Applicant: METRO SALES CORP., 1921 West First St., P.O. Box 1861, Sanford, FL 32771. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. As a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–080

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 87730 (Sub-30F), filed November 13, 1980. Applicant: R. W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. 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 152221F, filed October 14, 1980. Applicant: KEY TRANSPORT, INC., 8370 Greensboro Dr. #604, McLean, VA 22102. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–096

Decided: Nov. 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 146942 (Sub-1F) filed, October 17, 1980. Applicant: CARROLL TRUCKING, INC., 7444 Major Avenue, Norfolk, VA 23505. Representative: Blair P. Wakefield, Suite 1001, First & Merchants, National Bank Bldg., Norfolk, VA 23510. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 126473 (Sub-47F) filed September 18, 1980 (correction), published in the **Federal Register** issue of October 22, 1980, and republished this issue. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., in Rock County, WI, to points in TX, LA, AR, MS, TN, MD, PA, and VA; and (2) (a) *meats, meat products, and meat by-products*, (b) *foodstuffs* (except the commodities in (a) above), and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) and (b) above, in the reverse direction.

Note.—This republication is to correct the origin territory in (1) above.

MC 126473 (Sub-48F), filed September 18, 1980, (correction), previously noticed in the **Federal Register** issue of October 22, 1980, and republished this issue. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., in Scott County, IA, to points in AL, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NH, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of gelatin products, in the reverse direction.

Note.—This republication is to correct the territory description in (1) above.

Volume No. OP2–097

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 113963 (Sub-1F), filed November 7, 1980. Applicant: HEAVY & SPECIALIZED HAULERS, INC., 190 Polk Ave., P.O. Box 8796, Nashville, TN 37203. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. 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 147553 (Sub-8F), filed October 30, 1980. Applicant: DENNIS MOSS AND GARY MOSS, a partnership, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. 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.

Volume No. OP3–076

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2484 (Sub-58F), filed October 31, 1980. Applicant: E & L TRANSPORT COMPANY, a corporation, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. 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 131065 (Sub-1F), filed November 4, 1980. Applicant: PDR TRUCKING, INC., P.O. Box 609, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. *Broker,* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 144094 (Sub-5F), filed October 31, 1980. Applicant: ALADDIN, INC., 15 Scout Avenue, South Kearny, NJ 07032. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. 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 149474 (Sub-1F), filed November 4, 1980. Applicant: CONTRACTORS CARGO COMPANY, A Corporation, 11100 S. Garfield Ave., South Gate, CA 90280. Representative: John H. Briggs (same address as applicant). 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.

Volume No. OP3–080

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 73165 (Sub-532), filed October 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *metal articles, construction materials, machinery,* and *machinery parts,* between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificate in No. MC–73165, Subs 180, 196, 217, 226, 237, 263, 283, 295, 296, 322, 355, 361, 362, 363, 368, 370, 391, 396, 425, 426, 455, 463, 471, and 500. Applicant relies on traffic studies rather than shipper support.

Volume No. OP4–125

Decided: Nov. 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 43867 (Sub-46F), filed October 31, 1980. Applicant: A. LEANDER MCALISTER TRUCKING CO., a corporation, P.O. Box 2214, Wichita Falls, TX 76307. Representative: John T. Wirth, 717–17th St., Suite 2600, Denver, CO 80202. 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 100666 (Sub-537F), filed October 27, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To engage in operations, as a property broker in interstate or foreign commerce, at Shreveport, LA, to arrange for the transportation, by motor vehicle, of *general commodities* (except household goods), between points in the U.S.

MC 146646 (Sub-124F), filed October 23, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Fernwood, Kokomo, Lexie, Tylertown, Black Bayou Junction, Minter City, Vance, Tutwiler, Belzoni, and Sunflower, MS, 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 151667 (Sub-1 F), filed October 31, 1980. Applicant: J. F. LOMMA, INC., 125 Adams St., South Kearny, NJ 07032 Representative: John L. Alfons, 550 Mamaroneck Ave., Harrison, NY 10528. 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 152497 (Sub-1F), filed October 17, 1980. Applicant: CALDWELL ENTERPRISES, INC., 1209 N.E. 137th Ave., Portland, OR 97230. Representative: Raymond D. Caldwell (same address as applicant). Transporting *food or other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, Agricultural limestone and other soil conditioners, and agriculutural fertilizers, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 152577F, filed November 6, 1980. Applicant: FORBES & STOUT, LTD., P.O. Box 115, Lawrence, NY 11559. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. To engage in operation, interstate or foreign commerce as a property broker, at Lawrence, NY, in arranging for the transportation, by motor vehicle, of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–126

Decided: Nov. 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 152467 (Sub-1F), filed October 29, 1980. Applicant: ROY B. HAMMETT, d.b.a. ALLIGATOR EXPRESS, 107 Main St., Abita Springs, LA 70420. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except used household goods, hazardous or secret mataerials and sensitive weapons and munitions) for the United States Government, between points in the U.S.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 36707 Filed 11–24–80; 8:45 am]

BILLING CODE 7035–01–M

[Administrative Ruling No. 130]

Transportation of Toxic Waste

November 18, 1980.

In response to questions, the following ruling indicates what the Office of Consumer Protection considers to be the correct interpretation of the recodified Interstate Commerce Act. The ruling is tentative and in absence of Commission decisions.

Question: Is authority from this Commission required to transport toxic waste or hazardous materials for compensation in interstate or foreign commerce?

Answer: Yes.

Originally, the Commission held in *Long Island Nuclear Services Corp. Com. Car. Applic.*, 110 M.C.C. 398, 404 (1969) that "radioactive waste or contaminated materials" are considered "property" subject to Commission regulation.

In a second decision, *Nuclear Diagnostic Labs., Contr. Car. Applic.*, 129 M.C.C. 339, 344 (1978) the Commission reversed the above policy and held that radioactive material destined for burial did not constitute "property" subject to Commission jurisdiction.

However, as the result of a court proceeding, *Tri-State Motor Transit Co.*, v. *United States of America et al*, civil action No. 78–1678 (1978), the Commission reopended the *Nuclear Diagnostic Labs., supra*, subject to approval of the Court of Appeals in order to modify that decision to conform with the prior decision in *U.S. Energy Research & Development Adm.*, v. *Akron*, 359 I.C.C. 639 (1978).

In *Akron, supra*, the Commission found that the transportation of radioactive material is subject to Commission regulation, and that railroads have a common obligation to file appropriate tariffs and provide service.

In view of the foregoing, the Commission decided in the latest *Nuclear Diagnostic Labs., Contr. Car. Applica.*, 131 M.C.C. 578, 581 (1979), that hazardous materials destined for burial are "property."

The Commission concluded that "that economic value of hazardous materials, including radioactive waste destined for burial, should not be the sole criterion for determining whether these commodities are 'property' subject to the general jurisdiction of the Commission." *Id.* at 580.

Based on this conclusion, the Commission decided that in order "to promote safe, adequate, economical and efficient transportation," the public interest requires the application of the broader definition of 'property' in determining the Commission's jurisdiction" over the transportation of radioactive waste materials. Consequently, the Commission held that such transportation requires authorization.

In view of the foregoing, this Office follows the above position regarding the interstate or foreign transportation of hazardous materials or toxic waste, even though such materials are not radioactive. Authority from the Commission is necessary when a for-hire carrier transports hazardous materials or toxic wastes in interstate or foreign commerce.

This Office uses the general rule that those commodities which require protective disposal or burial are properly classified as hazardous materials or toxic wastes, and that such commodities require authority from this Commission when transported in interstate or foreign commerce by for-hire carriers.

Waste which is not toxic, radioactive or contaminated so as to be considered hazardous, and with no property value when transported in interstate or foreign commerce solely for purposes of disposal, has been held not subject to regulation by the Commission. In this respect see *Joray Trucking Corp. Common Carrier Application*, 99 M.C.C. 109, 110 (1965). Such waste is categorized as trash or debris and possesses only a "negative" property value in that it will be used in anything productive but must be discarded. This type of waste is discarded in ordinary landfills or dumping grounds. *Id.*

Hazardous wastes include any wastes posing a present or potential hazard to human health because of toxicity, nondegradability, persistence in nature or susceptibility to biological magnification.[1] They come in many forms (solids, sludges, slurries and liquids), and fall into categories that often overlap (inorganic toxic metals; salts, acids or bases; synthetic organics; flammables; explosives; pathological, biological and radioactive materials). See Rogers Environmental Law at Section 6.10 page 689.

We believe this interpretation is also in conformity with the Congressional declaration of the National Environmental Policy found in Title 42, Section 4331 of the United States Code.

Sec. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

Also, the interstate or foreign transportation of discarded articles or waste which will be restored to their manufacturing cycle through recycling requires a special certificate of public convenience and necessity issued by the Commission. See Ex Parte No. MC–85, *Transportation of "Waste" Products for Reuse*, 114 M.C.C. 92, 109 (1971) and Ex Parte No. MC–85, *Transportation of "Waste Products for Reuse*, 124 M.C.C. 583, 611–13 (1976) and 49 CFR 1062.

In the event of disagreement with the above position, a petition may be filed in accordance with Section 5(d) of the Administrative Procedure Act [5 U.S.C. 554(e)(1964)], which permits the Commission in its discretion to issue declaratory orders to end controversies or remove uncertainties.

Robert S. Turkington,

Associate Director.

[FR Doc. 80–36708 Filed 11–24–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment

resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–74

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC, FEDERAL RESERVE BANK BLDG., 101 N. 7TH ST., ROOM 620, PHILADELPHIA, PA 19106.

MC 148400 (Sub-II–3TA), filed November 10, 1980. Applicant: ORVILLE E. VAUGHAN AND KATHLEEN V. VAUGHAN, d.b.a. SUN VALLEY TANK LINES, 64 Laporte Dr., Mars, PA 16046. Representative: William A. Gray, Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. Contract; Irregular. General Commodities (except household goods as defined by the Commission and classes A and B explosives) between points in the US under continuing contract(s) with Jacob Stern & Sons, Inc.; Snow Commodities Co., Inc.; Acme Hardesty Co., Inc.; Kaber Commodities Company, and Murro Chemical Co., Inc,. all of Jenkintown, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) There are 5 supporting shippers.

MC 116763 (Sub-II–84TA), filed November 4, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Scrap paper,* from points in IA and MO, to all points in IL, IN, OH and WI. Restricted to traffic originating at the facilities utilized by Donco Paper Supply Co. and Von Hoffmann Press, Inc. and destined to the indicated destinations, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Donco Paper Supply Co. 919 North Michigan Ave. Chicago IL 60611, Von Hoffmann Press, Inc. 1000 Camera Ave. St. Louis, MO 63126.

MC 110683 (Sub-II–10TA), filed November 3, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. N.W., Washington, D.C. 20036. *Common; regular: General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving the facilities of General Electric at or near Tyler, TX, as an off-route point in connection with carrier's regular routes for 270 days. Applicant intends to tack the authority sought herein with existing authority held under MC 110683. Applicant intends to interline at all present interchange points. An underlying ETA seeks 120 days authority. Supporting Shipper(s): General Electric Company, 2401 E. Sunshine, Springfield, MO 65805.

MC 115078 (Sub-II–1TA), filed November 3, 1980. Applicant: SINDALL TRANSPORT, INC., 102 North Custer Ave., New Holland, PA 17557. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. N.W., Washington, D.C. 20005. *Agricultural machinery, implements, accessories, and parts,* from the facilities of Sperry New Holland Division, Sperry Corporation at or near New Holland, Mountville and Belleville, PA to ports of entry on the international boundary line located in ME, restricted to traffic destined to the Canadian Provinces of New Brunswick, Nova Scotia, and Prince Edward Island for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sperry New Holland, Sperry Corporation, 500 Diller Ave., New Holland, PA 17557.

MC 123540 (Sub-II–1TA), filed November 7, 1980. Applicant: WERLIN CORPORATION, 3415 Southside Ave., Cincinnati, OH 45204. Representative: Paul F. Berry, 275 E. State St,. Columbus, OH 43215. Contract, irregular: *Hydrochloric acid, in bulk, in tank trucks,* from Louisville, KY to Cincinnati, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sherwin Williams Co., 501 Murray Road, Cincinnati, OH 45217.

MC 79687 (Sub-II–3TA), filed November 6, 1980. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Containers, container accessories, equipment materials and supplies used in the manufacture of the above commodities* (except commodities in bulk) between the facilities of Hoover Universal, Inc. at or near Franklin, IN, and Columbus, OH to points in the US in and east of MN, IA, MO, KS, AR and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hoover Universal, Inc., Rte. 2, Tri Port Rd., Georgetown, KY 47324.

MC 109124 (Sub-II–10TA), filed November 6, 1980. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Interior building products for walls, ceilings, and floors, and related supplies* (except commodities in bulk), from Westlake and Medina, OH; Baltimore, MD; and Red Lion, PA, to points in the United States, except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Donn Corporation, 1000 Crocker Rd., Westlake, OH 44145.

MC 150724 (Sub-II–1TA), filed November 6, 1980. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Liquid or dry plasticizers (except commodities in bulk),* from the facilities of Synthetic Products Company, at Cleveland, OH to points in AZ, CA, NV, OR, TX, and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Synthetic Products Company, 16601 St. Clair, Cleveland, OH 44110.

MC 152581 (Sub-II–1TA), filed November 7, 1980. Applicant: YOUNG MOVING & STORAGE, INC., 4000 Mayflower Dr., Lynchburg, VA 24501. Representative: Alan F. Wohlstetter, 1700 K St, N.W., Washington, D.C. 20006. *Used Household Goods* between points in Highland, Bath, Alleghany, Rockbridge, Agusta, Albemarle, Nelson, Amherst, Appomattox, Buckingham, Fluvanna and Louisa Counties, VA., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic for 270 days. Supporting shipper: Department of the Army, Fort Lee, VA 23801.

MC 114569 (Sub-II–33TA), filed November 13, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Boxed meat products,* from Seward County, KS, to points in the United States, (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: National Beef Company, Box 978, Liberal, KS 67901.

MC 152641 (Sub-II–1–TA), filed November 12, 1980. Applicant: T LINE EXPRESS, INC., 4425 Rising Sun Avenue, Phila, PA. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Contract; Irregular: *Tires and Rubber Products* between Conshohocken and Frazier, PA, on the one hand, and, on the other, points in VA and NC under a

continuing contract or contracts with Lee Tire and Rubber Company of Conshohocken, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lee Tire and Rubber Company, 1100 East Hector Street, Conshohocken, PA 19428.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 75840 (Sub-3–13–TA), filed November 10, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Raymond Hamilton, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, AL 35222. *General Commodities* between Monroe and Lee Counties, MS on the one hand, and, on the other, points in the states of MA, CT, RI, VT, and NH. Supporting shipper: Kerr McGee Chemical Corporation, Kerr McGee Center, P.O. Box 25861, Oklahoma City, Oklahoma 73125.

MC 135895 (Sub-18TA), filed November 7, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *(1) Insulating materials and (2) equipment, materials and supplies used in the manufacture, sale and distribution of insulating materials (except commodities in bulk and those requiring special equipment)* between Fruita, CO and Grambling, LA, on the one hand and, on the other, points in the U.S. (except AK and HI); restricted to the transportation of traffic originating at or destined to the facilities of Pabco Insulation Division, Louisiana-Pacific Corporation. Supporting shipper(s): Pabco Insulation Division, Louisiana-Pacific Corporation, 1110 16 Road, Fruita, CO 81521.

MC 138882 (Sub-3–28TA), filed November 7, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC. P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). *(1) Railroad/ Highway Grade Crossings, and (2) Materials, Equipment and Supplies used in the manufacture and distribution of commodities in (1) above* between points in the US (except AK and HI) restricted to transportation of traffic originating at or destined to the facilities of Szarka Enterprises, Inc., their suppliers and customers. Supporting shipper: Szarka Enterprises, Inc. P.O. Box 2027, Livonia, MI 48151.

MC 138308 (Sub-3–17TA), filed November 7, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Fertilizing compounds, in containers* between points in the U.S. (except AK and HI), restricted to traffic originating at or desitned to facilities utilized by International Spike, Inc. Supporting shipper: International Spike, Inc., P.O. Box 1750, 817 E. Third Street, Lexington, KY 40593.

MC 107515 (Sub-3–85TA), filed November 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050 Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor Lenox Towers South, Atlanta, GA 30326. *Liquid and Plastic Adhesives (except in bulk)* from Havre de Grace, MD to points in FL, OH, KY, SC, TN and TX. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne. NJ 07470.

MC 147474 (Sub-3–5TA), filed November 7, 1980. Applicant: SOUTHWIRE COMPANY, Transportation Division, 126 Fertilla Street, Carrolltion, Georgia 30119. Representative: Mr. Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanata, Georgia 30383. *General commodities (with ususal exceptions)* from the states of AL, AR, CT, DE, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI to the states of AL, FL (on or West of U.S. Highway 319 & 98), GA, SC and TN. There are 14 statements of support attached to this application which may be reviewed at the Atlanta regional office.

MC 2934 (Sub-3–23TA), filed November 7, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Kitchen cabinets, vanities, shelving units, hardwood flooring, and commodities used in the manufacturing thereof,* between the facilities of Triangle Pacific Corporation at: Springville, AL; Lakeland, FL; Nappanee, IN; Union City, IN (except to CT, DE, ME, MD, MA, NH, NJ, NY, PA and RI); Nashua, NH; Auburn, NE; Elizabeth City, NC (except to CT, DC, New Castle County, DE; ME, NH, NY, MA and PA); Carbondale, PA; Thompsontown, PA; Jackson, TN; Jefferson City, IN; Morristown, TN; Nashville, TN; Center, TX and Mckinney, TX: and AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, ND, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. Supporting shipper: Triangle Pacific Corporation, 16803 Dallas Parkway, Dallas, TX.

MC 143276 (Sub-3–5TA), filed November 7, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, Ga 30080. Representative: Jack Weaver (Same address as applicant). *Prestressed and Precast Concrete and Prestressed and Precast Concrete Products,* from Clayton County, GA, on the one hand, and on the other points in FL. Supporting shipper: Atlanta Prestressed, Inc., P.O. Box 246, 1655 Noah's Ark Road, Jonesboro, GA 30236.

MC 152551 (Sub-3–1TA), filed November 7, 1980. Applicant: TRIPLE R TRANSPORT, INC., 3580 S.W. 46th Avenue, Ft. Lauderdale, FL 33314. Representative: Norman J. Bolinger, 3100 University Blvd. S., Suite 225, Jacksonville, FL 32216. *(1) iron and steel articles and (2) materials, equipment and supplies used in the manufacture, sale, and distribution of (1) above,* between points in FL, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, and TN, under continuing contracts(s) with Hubbell Steel Corporation, 11355 W. Franklin Avenue, Franklin Park, IL 60131. Supporting shipper: Hubbell Steel Corporation, 11355 W. Franklin Avenue, Franklin Park, IL 60131.

MC 145230 (Sub-3–2TA), filed November 3, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, 456 Main Street, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Wood burning stoves* between Charlotte, NC and points in the United States under a continuing contract or contracts for Bart Manufacturing Company.

MC 121654 (Sub-3–27TA), filed November 7, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representatives: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Building Materials* from the facilites of Alsco Anaconda Co. at or near Bridgeport, NJ to points in CT, GA, MD, MA, NY, NC, PA, and VA. Supporting shipper: Alsco Anaconda Company, 501 Sharptown Road, Pureland, Bridgeport, NJ.

MC 121654 (Sub-3–26TA), filed November 7, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representatives: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Chemicals and dyestuffs* between facilities of Sandoz Colors and

Chemicals at or near Martin, SC, on the one hand, and, on the other, Atlanta, GA; East Hanover, NJ; Fair Lawn, NJ; and Charlotte, NC. Supporting shipper: Sandoz Colors & Chemicals, Highway 102, Martin, SC 29836.

MC 152059 (Sub-3–1TA), filed September 29, 1980. (republication)—originally published in **Federal Register** of 10–21–80 Page 69578, volume 45, No. 205. Applicant: RAPID TRANSFER & STORAGE, INC., 4725 NW 72d St., Miami, FL 33166. Representative: Richard B. Austin, 320 Rochester Building, 8390 53d St., Miami, FL 33166. *New and used furniture, crated, crated household goods, and automotive, industrial, tractor and engine parts, crated and uncrated,* from New York, NY, and Elizabeth and Newark, NJ to Miami, FL. Restricted to traffic having a continuing movement in foreign commerce at Miami, FL. Supporting shippers: Sleepworld Industries Inc., Miami, FL; Andes Express Packing & Shipping Corp., Jackson Heights, NY; Swiss-American Forwarders, Miami, FL; Embarques Mundo Packing & Shipping, Jackson Heights, NY.

MC 147148 (Sub-3–1TA), filed September 29, 1980. Republication—Originally published in the **Federal Register** of October 21, 1980, page 69577, volume 45, No. 205. Applicant: GOLDEN TRIANGLE TRANSPORTATION, INC., Highway 82 East, P.O. Box 2043, Columbus, MS 39701. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Contract* carrier: irregular: *Steel pails and paint raw materials* between points in TX and LA, on the one hand, and, on the other, points in IL and OH, under continuing contract or contracts with Ribelin Sales, Inc. Supporting shipper: Ribelin Sales, Inc., 7786 Blakenship Dr., Houston, TX 77055.

MC 133917 (Sub-3–4TA), filed October 16, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71002, volume 45, No. 209. Applicant: CARTHAGE FREIGHT LINE, INC., P.O. Box 315, Carthage, TN 37030. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. *General commodities (except classes A & B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Chattanooga, TN, and points in its commercial zone, on the one hand, and, on the other, points in GA. There are 70 statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

Note.—Applicant intends to tack with docket number MC–133917 and subs at Chattanooga and to interline at Louisville, Nashville, Carthage, Chattanooga, Macon, Columbus, Augustus, Savannah and Atlanta.

MC 146222 (Sub-3–1TA), filed October 8, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71000, volume 45, No. 209. Applicant: ILCO TRUCKING, INC., P.O. Box 528, Leads, AL 35094. Representative: H. G. Jackson, Jr. (same address as above). Contract; irregular; *Iron and steel articles (except commodities in bulk)* from points in the United States in and east of MT, WY, CO and NM to the facilities of Atlas Metals Company, Inc., located in or near Birmingham, AL. Supporting shipper: Atlas Metals Company, Inc., 2066 Montevallo Rd., SW, Birmingham, AL 35211.

MC 2934 (Sub-3–17TA), filed October 8, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71000, volume 45, No. 209. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above). *New hospital and laboratory equipment* from Two Rivers, WI to AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA and WV. Supporting shipper: American Hamilton, 1316 18th Street, Two Rivers, WI 54241.

MC 121568 (Sub-3–18TA), filed November 10, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). *Cloth, cotton or synethetic fibre, or cotton or synthetic fibre and natural fibre combined, not woven, knitted or stitched, and the materials, supplies and equipment used in the manufacture and distribution of these commodities (except in bulk)* between points in Davidson County, TN on the one hand and on the other, points in the U.S. (except AK and HI). Supporting shipper: Xenon Inc., 1200 Bryan Street, Old Hickory, TN 37138.

Note.—Applicant intends to tack with existing authority and interline at Nashville, TN and Memphis TN.

MC 149218 (Sub-3–14TA), filed November 10, 1980. Applicant: SUNBELT EXPRESS INC., Highway 78 West, P.O. Box 604, Bremen, GA 30110. Representative: Pat H. Carden (same address as applicant). *Paper and paper products; and materials and supplies used in the manufacture, processing, conversion, sale and distribution of paper and paper products* between Austell, GA, on the one hand, and, on the other, points in AL, AR, FL, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA and WV. Supporting shipper: Austell Box Board, P.O. Box 157, Austell, GA 30001.

MC 144503 (Sub-3–7TA), filed November 10, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *(1) Bags, plastic, paper & burlap and containers in bales, rolls and packages (2) All equipment, materials and supplies used in the manufacture of (1) above,* (1) From Dowling Bag Company, Valdosta, GA to points in the United States, except AK and HI (2) From points in the United States, except AK and HI, to Dowling Bag Company, Valdosta, GA. Supporting shipper: Dowling Bag Company, P.O. Box 1768, Valdosta, GA 31601.

MC 75840 (Sub-3–12TA), filed November 10, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton (same address as above). *Lumber or Wood Products, except Furniture,* between points in North Carolina, on the one hand, and, on the other, points in the states of DE, GA, MD, NJ, NY, PA, OH, SC, VA and WV. Supporting shipper: McCoy Lumber Company, P.O. Box 22085, Greensboro, North Carolina 27420.

MC 144740 (Sub-3–2TA), filed November 10, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same as applicant). *Contract carrier;* irregular routes; *curtains and/or drapes* (1) from Bridgeport, CT to Pinebluff, NC; and (2) from Pinebluff, NC to Los Angeles, CA, under a continuing contract with Century Curtain Company, Inc. Supporting shipper: Century Curtain Company, Inc., Box 7, Highway 1 South, Pinebluff, North Carolina 28373.

MC 125368 (Sub-3–14TA), filed November 10, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Foodstuffs and Supplies* used by Ore-Ida Foods, Inc., Boise, ID, between the facilities located at or near Greenville, MI (Montcalm County), Plover, WI (Portage County), and Massillon, OH (Stark County), on the one hand, and, on the other, to AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

Supporting shipper: Ore-Ida Foods, Inc., P.O. box 10, Boise, ID 83707.

MC 152519 (Sub-3–1TA), filed November 4, 1980. Applicant: CENTRAL FLORIDA TRUCKING CO., INC., State Road 640 and Noralyn Mine Rd., Bartow, FL 33830. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Contract* carrier: irregular: *Phosphate rock, in bulk, in dump vehicles,* from points in DeSoto, Hardee, Hillsborough, Manatee, and Polk counties, FL to Port Manatee, FL. There will be a subsequent move by water. Supporting shipper: Beker Phosphate Corporation, 920 Manatee Ave., West, Suit 51, Bradenton, FL 33505.

MC 152544 (Sub-3–2TA), filed November 14, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission and classes A & B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of Load King Manufacturing Co.,* between Jacksonville, FL on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Load King Manufacturing Co., 1357 W. Beaver Street, Jacksonville, FL.

MC 114562 (Sub-3–2TA), filed November 14, 1980. Applicant: WENDELL TRANSPORT CORPORATION, P.O. Box 100, Wendell, NC 27591. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Streptomyces solubles* from Wilmington, NC to points in NC, SC, GA and FL. Supporting shipper(s): Ceva Laboratories, 10560 Barkley, Overland Park, KS 66212.

MC 141619 (Sub-3–2TA), filed November 14, 1980. Applicant: LOY E. SIGMON SR., d.b.a. NEW WAY TRANSPORTATION, Rt. 1, Box 392, Statesville, NC 28677. Representative: Loy E. Sigmon Sr. (same address as applicant). *Plastic and Plastic Articles, and Materials and Supplies used in the manufacture of Plastic Articles.* Between points in Iredell County, NC, on the one hand and points in the United States on the other. Supporting shipper: F*A*M*E Plastics Inc., I–40 & Old Mountain Road, Rt. 3, Box 167, Statesville, NC 28677.

MC 129623 (Sub-3–1TA), filed November 14, 1980. Applicant: FRANK E. HUGHES, d.b.a. HUGHES MOVING & STORAGE COMPANY, 6454 Stringfield Rd. NW., Huntsville, AL 35810. Representative: John P. Carlton, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Used household goods,* Between Huntsville and Redstone Arsenal, AL, on the one hand, and, on the other, points in Hardin County, TN. Restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. The purpose of this application is to add Hardin County, TN, to the scope of applicant's present authority in TN, in the belief that such County was inadvertently omitted from MC–129623 (Sub 2) at the time of issuance of the same. There is no shipper support for this application.

MC 144827 (Sub-3–20TA), filed November 14, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities, with the usual exceptions,* from the facilities of Acme Fast Freight, Inc. at Charlotte, NC, to facilities of Acme Fast Freight, Inc. at Chicago, IL. Supporting shipper: Acme Fast Freight, Inc., 90 Terminal St., Memphis, TN 38109.

MC 151173 (Sub-3–3TA), filed November 14, 1980. Applicant: HAR-BET, INC., 7209 Tara Boulevard, Jonesboro, GA 30236. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Rd. NE., Atlanta, GA 30326. *General commodities, except in bulk* between points in the US, restricted to the transportation of traffic originating out or destined to facilities of Rayloc, a Division of Genuine Parts Company of Atlanta, GA. Supporting shipper: Rayloc, a Division of Genuine Parts Company, 1020 Huff Road, N.W., Atlanta, GA 30318.

MC 152645 (Sub-3–1TA), filed November 14, 1980. Applicant: GASTON MOTOR LINES, INC., P.O. Box 3896, Gastonia, NC 28052. Representative: J.W. Stiles (same address as applicant). *Contract carrier:* irregular routes: *metal, metal products, wood stoves and components to comprise such,* from the facilities of Quality Metals Products, Inc., Gastonia, NC to Longmont, CO; Eugene, OR; and Memphis, TN, under a continuing contract(s) with Quality Metal Products, Inc. Supporting shipper: Quality Metal Products, Inc., Hwy. I–85, Gastonia, NC 28052.

MC 134105 (Sub-3–7TA), filed November 14, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Avenue, Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). *Foodstuffs (except commodities in bulk, in tank vehicles) from the plantsite and storage facilities of Adam Packing Association, Inc. at or near Memphis, TN to points in the United States except Alaska and Hawaii. Supporting shipper: Adams Packing Association, Inc. P.O. Box 37 Auburndale, Florida 33823.*

MC 111545 (Sub-3–8), filed November 14, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as applicant). *Lumber and wood products,* from Deschutes County, OR, to Rochester, NY and Landover, MD. Supporting shipper: Bear Springs Forest Products, Inc., P.O. Box 5193, Portland, OR 97208.

MC 152647 (Sub-3–1TA), filed November 14, 1980. Applicant: STANFORD W. CATO, d.b.a. CATO'S "LITTLE RED WAGON" TRUCK LINE, Route No. 3, Hydes Ferry Pike, Nashville, TN 37218. Representative: Stanford W. Cato (same address as above). *Water heaters, water heater parts* and *related items,* between Cheatham County, TN, on the one hand, and, on the other, points in IL, AZ, UT, NV, ID, WA, OR, CA, and TX. Between Clark County, NV, on the one hand, and, on the other, points in AZ, UT, ID, OR, IL, TN, OK, AR, WA, CA, and TX. Supporting shipper: State Industries, By Pass Rd., Ashland City, TN 37015.

MC 31389 (Sub-3–9TA), filed November 14, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. *Common Carrier:* Regular: *General commodities (with the usual exceptions),* serving the facilities of Peck, Inc., located at or near Bloomington, IN as an intermediate point in connection with applicant's regular route operations. Supporting shipper: Peck, Inc., 516 Lafeyette Rd., St. Paul, MN 55101.

Note.—Applicant intends to tack with existing authority in MC 31389 and subs thereunder and to interline. The listing of interline points may be examined at the I.C.C. Regional Complaint/Authority Center in Atlanta, GA.

MC 52704 (Sub-3–11TA), filed November 12, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite, 202, 2200

Century Parkway, Atlanta, GA 30345. (1) *Matches and ice cream sticks,* and (2) *materials, equipment and supplies used in the manufacture and distribution of matches and ice cream sticks,* between St. Charles Parish, LA, on the one hand, and, on the other, points in AL, FL, GA, KY, IN, MD, MO, NY, NC, SC, TN, and TX. Supporting shipper: Trans Match, Inc., P.O. Box 370, Kenner, LA 70063.

MC 144989 (Sub-3–2TA), filed November 13, 1980. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Court, Charlotte, NC 28205. *Contract* carrier: irregular routes: *Carpets, carpeting, carpet remnants or rugs; and yarn, material* and *supplies used in the manufacture of the foregoing commodities,* between Calhoun, GA and points in the United States (except AK and HI), under continuing contracts with Horizon Industries, Inc., P.O. Box 969, Calhoun, GA 30701. Supporting shipper: Horizon Industries, Inc., P.O. Box 969, Calhoun, GA 30701.

MC 126736 (Sub-3–5TA), filed November 13, 1980. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, Jacksonville, Florida 32201. Representative: L. H. Blow, 155 East 21st Street, Jacksonville, Florida 32201. *Ethanol,* in bulk, in tank vehicles, from points in Charleston, SC; N. Augusta, SC; Savannah, GA; and Jacksonville, FL to all points in AL, FL, FA, SC, NC, and VA. Supporting shipper: Phillips Petroleum Company, 844 Adams Bldg., Bartlesville, OK 74004.

MC 144069 (Sub-3–13TA), filed November 13, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). *Iron and steel articles* between Georgetown County, SC on the one hand and on the other points in and east of MS, TN, KY, IL, and WI. Supporting Shipper: Georgetown Steel Corporation, P.O. Box 619, Georgetown, SC 29440

MC 140176 (Sub-3–8TA), filed November 12, 1980. Applicant: POWELL TRUCKING CO., INC., P.O. Box 346, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Contract carrier:* Irregular routes: *Treated poles, posts, piling and wood products* between Posey County, IN on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract or contracts with Crown Zellerbach Corporation. Supporting Shipper: Crown Zellerbach, P.O. Box 1060, Bogalusa, LA 70427.

MC 17000 (Sub-3–2TA), filed November 10, 1980. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. *General Commodities (except household goods as defined by the Commission and classes A & B explosives),* between points in Davidson, Henderson, Lewis, Perry, Shelby, and Williamson, Decatur and Hickman Counties, TN, Crittenden County, AR, and DeSoto County, MS, on the one hand, and, points in the U.S., on the other. Applicant proposes to interline at all service points. There are 22 supporting shipper statements attached to this application. The supporting shipper statements and a list of applicant's proposed interline points may be examined at the Atlanta Regional Authority Center

MC 2900 (Sub-3–22TA), filed November 10, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road; P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *General Commodities in containers or trailers,* restricted to traffic having prior or subsequent movement by water between Norfolk, VA, on the one hand, and on the other, points and places in the state of VA. Supporting shippers: United States Lines, Inc., 7737 Hampton Boulevard, Norfolk, VA 23514; and Anders Williams Co., 2 Commercial Place, Norfolk, VA 23510.

MC 152142 (Sub-3–1TA), filed October 3, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 65980, volume 45, No. 205. Applicant: DALLAS M. CRONRATH, d.b.a. D & A TRANSPORT, P.O. Box 974, Ft. Pierce, FL 33450. Representative: Dallas M. Cronrath (same as above). *Contract carrier,* irregular routes: *PVC (plastic) fitting for plumbing and/or irrigation use and/or PVC granules, except in tank or bulk,* from Ft. Pierce, FL to CA, CO, OK, TX, IL, IN, MI, GA, SC, PA, NY and from Kalamazoo, MI; Baton Rouge, LA; Tiptonville, TN; New Castle and Delaware City, DE to Ft. Pierce, FL. Supporting shipper: Colonial Engineering, Inc., 4000 Metzger Rd., P.O. Box 699, Ft. Pierce, FL 33450.

MC 98039 (Sub-3–1TA), filed October 3, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 69575, volume 45, No. 205. Applicant: LENIOR TRANSFER COMPANY, INC., P.O. Box 696, Lenoir, NC 28645. Representative: C. Douglas Woods (same as above). *New furniture, parts and materials and supplies used in the manufacturing of furniture and furniture parts (except commodities in bulk),* from points in NC to Caldwell and Catawba Counties, NC, for subsequent movement in interstate commerce. Supporting shipper: Cook's Transfer & Storage Co., Inc., Lenoir, NC; Terminal Freight Cooperative Assoc., 1430 Branding Lane, Lane-Downers Grove, IL 60515 and Singer Furniture Co., P.O. Box 5337, Roanoke, VA 24012.

Note.—Applicant intends to interline with other carriers.

MC 128117 (Sub-3–5TA), filed November 12, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, Esquire, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *(a) (New furniture and furniture parts and (b) furniture parts, supplies, packaging and items used in the manufacturing and transportation of new furniture and furniture parts* (a) from Austin, TX to points in the states of AL, AZ, AR, CA, CO, FL, GA, KY, KS, LA, MS, MO, NE, NV, NM, NC, OK, SC, TN, VA, and UT, and (b) from points in Caldwell, Rutherford, Alexander, and Catawba counties, NC and from points in Washington county, VA and Lynchburg, VA (an independent city) to Austin, TX. Supporting shipper: Broyhill Industries, Broyhill Park, Lenoir, NC 28633.

MC 147787 (Sub-3–3TA), filed November 12, 1980. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Contract,* irregular. *Such commodities as are dealt in or used by retail and wholesale department stores (except commodities in bulk)* from North Bergen, NJ and points in its commercial zone to Baton Rouge and Shreveport, LA and points within their commercial zones. Supporting shippers: Selber Bros., Inc., 601 Milam, Shreveport, LA 71120; Goudchaux's, Inc., P.O. Box 3478, Baton Rouge, LA 70821.

MC 146782 (Sub-3–7TA), filed November 12, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, Tennessee 37201. *Rough Iron and Steel Castings and Forgings,* between the facilities of the Budd Company in Washington County, TN, on one hand, and, on the other, points in KY, IA, MI, and WI. Restricted to traffic originating at or destined to the above named facilities. Supporting shipper: The Budd Company, 506 Milligan Highway, Johnson City, TN 37601.

(Hearing site: Nashville, TN or Johnson City, TN.)

MC 148320, (Sub-3–3TA), filed November 12, 1980. Applicant: MHB, INC., 204 E. North Street, Warsaw, NC 28398. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Malt beverages, related advertising materials, materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages, and empty returned malt beverage containers,* between the Detroit, MI and Toledo, OH Commercial Zones, on the one hand, and, on the other, Fayetteville and Hamlet, NC and Brunswick and Savannah, GA. Supporting shipper: Sullivan Wholesale Company Inc., 954 Country Club Drive, Fayetteville, NC 28303.

MC 31675 (Sub 3–24), filed November 10, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, N.C. 28234. Representative: Jay R. Hanson (Same as above). *Copper tubes, pipes or coils and materials, equipment and supplies used in manufacture of the commodities* between Reading, PA, and points and places in the U.S. Supporting shipper(s): Reading Industries, P.O. Box 126, Reading, PA, 19603.

MC 136316 (Sub-3–1TA), filed November 10, 1980. Applicant: SMITH TRUCKING CO, INC., Rt. 4, Lancaster, S.C. 29720. Representative: Winston J. Smith (address same as applicant). *Contract Carrier,* Irregular routes. *Docket levelers and associated equipment,* from Milwaukee County, WI to points in NC and SC. Supporting shipper: Shanklin Equipment Inc., Rt. 1, Fort Mills, SC 29715.

MC 145559 (Sub-3–4TA), filed November 10, 1980. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Frozen vegetables,* from Richland and Chehalis, WA, to Crestview, Miami and Orlando, FL, Montgomery, AL, Memphis, and Nashville, TN, and points in TX. Restriction: Restricted to the transportation of shipments destined to facilities utilized by Church's Fried Chicken, Inc. Supporting shipper: H&L Sales, Inc., 410 S. Orchard, Suite 140, Boise, ID 83705.

MC 152604 (Sub-3–1TA), filed November 10, 1980. Applicant: SUNBELT TRANSPORT, INC., 1900 Emery Street, N.W., Atlanta, GA 30318. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, in tank vehicles and those requiring special equipment), in trailers or containers having a prior or subsequent movement by rail,* between points in GA. Supporting shippers: There are six statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 121654 (Sub-3–12TA), filed October 6, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 69582, volume 45, No. 205. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles)* between points in the states of AL, AR, CT, DE, LA, NH, FL, GA, MD, MA, MS, NJ, NY, OH, PA, RI, SC, TN, TX, VT, VA, WV and DC restricted to transportation of shipments originating at or destined to facilities of Owens-Corning Fiberglas Corporation. Supporting shipper: Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659.

MC 114334 (Sub-3–14TA), filed November 12, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel articles and aluminum articles* between Rosedale, MS and points in AL, LA, IN, IL, TN, AR, and Ga. Supporting shipper: Cives Steel Company, P.O. Box 609, Rosedale, MS 38769.

MC 146187 (Sub-3–2TA), filed November 10, 1980. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Water heaters, solar units, and parts and accessories for water heaters and solar units, and materials and supplies used in the manufacture and distribution of these commodities (except commodities in bulk),* between Johnson City, TN, Cleveland, OH and its commercial zone, and Santa Monica, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Mor-Flo Industries, Inc., P.O. Box 1378, Johnson City, TN 37601.

MC 115162 (Sub-3–16TA), filed November 10, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *Cement, in bags* from Okay Junction, AR to Baton Rouge, LA. Supporting shipper: Ideal Basic Industries; P.O. Box 8789; Denver, CO 80201.

MC 152614 (Sub-3–1TA), filed November 12, 1980. Applicant: WILLIAMSON TRUCK LINE, INC., Corner Thorne & Ralston Streets, Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. Contract, irregular: *Cleaning compounds, disinfectants, softeners, insecticides (other than agricultural NOI and liquid), and materials, supplies and equipment used in the manufacture and distribution thereof (except commodities in bulk),* between points in the U.S., under a continuing contract(s) with Texize, Division of Morton Norwich. Supporting shipper: Texize, Division of Morton Norwich, P.O. Box 368, Greenville, SC 29602.

MC 114562 (Sub-3–1TA), filed November 13, 1980. Applicant: WENDELL TRANSPORT CORPORATION, P.O. Box 100, Wendell, NC 27591. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Condensed molasses solubles and brewers' condensed solubles* from Baltimore, MD and Williamsburg, VA to Wilmington, NC. Supporting Shipper(s): Pacific Molasses Company, P.O. Box 739, Wilmington, NC 28402.

MC 144929 (Sub-3–1TA), filed November 12, 1980. Applicant: B & J TRUCKING, INC., Frontage Road, Rte. 3, Piedmont, SC 29673. Representative: Brian S. Stern, Stern & Jones, 5411–D Backlick Road, Springfield, VA 22151. Contract carrier: irregular: (1) *agricultural chemicals (except in bulk), and (2) products, supplies, and raw materials used in the manufacture, distribution, and sales of agricultural chemicals,* between points in AL, AZ, AR, CA, CO, FL, GA, IA, KS, KY, LA, MS, MO, NJ, NC, SC, OK, TN, TX, VA, and WV, under a continuing contract(s) with Monsanto Company, St. Louis, MO. Supporting shipper: Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63166.

MC 105813 (Sub-3–6TA), filed November 10, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Cat Litter,* from Jefferson County, GA to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Shopwell Supermarkets; 400 Walnut Ave.; Bronx, NY 10462.

MC 151651 (Sub-3–1TA), filed November 13, 1980. Applicant: INTERMODAL SERVICES INC., P.O. Box 668211, Charlotte, NC 28266. Representative: Richard T. Duckett, 6554–H Idlewild Rd., Charlotte, NC 28212. *Power hand tools and bedding* between Charlotte, NC on the one hand and Bryson City and Raleigh, NC on the other. Restricted to traffic having a prior or subsequent move by rail or motor carrier. Supporting shipper: Montgomery Ward and Co., 1 Montgomery Ward Plaza, Chicago, Illinois 60671.

MC 2900 (Sub-3–23TA), filed November 12, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission),* between Dallas, TX, on the one hand, and, on the other, those points in TX west of a line beginning in Houston, TX, and extending southeasterly along Interstate Hwy 45 to Galveston, TX, and those points in TX on and south of a line from Houston, TX extending along Interstate Hwy 10 to Columbus, TX, then along TX Hwy 71 to Austin, TX, then along U.S. Hwy 290 to Fredericksburg, TX, and to those points in TX on and east of a line beginning at Fredericksburg, TX, extending along U.S. Hwy 87 to San Antonio, TX, then along U.S. Hwy 81 to Laredo, TX. Supporting shipper: None. The purpose of the application is to provide for an alternate gateway at Dallas, TX resulting in operational efficiencies as applicant presently holds authority to serve all points in this application via Houston, TX.

Note.—Applicant intends to tack with existing authority in MC–2900 and to interline at over 85 points throughout its system. A listing of the interline points may be examined at the ICC Regional Authority Center at Atlanta, GA.

MC 121664 (Sub-3–28TA), filed November 10, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, Alabama 36460. Representative: W. E. Grant, 1702 1st, Ave. South, Birmingham, Alabama 35233. *Roofing, roofing materials, materials and supplies used in the manufacture production, installation, distribution, and sales of the above,* between Frederick, MD and points in and east of ND, SD, NE, KS, OK, and TX.

MC 107515 (Sub-3–86TA), filed November 10, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such commodities as are dealt in by manufacturers of infant care products (except in bulk)* from Royston, GA to Linden, NJ. Supporting shipper: Johnson & Johnson Baby Products Company, Grandview Road, Skillman, NJ 08558.

MC 2934 (Sub-3–24TA), filed November 10, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, (same as above). *Television sets, stereos and related products, and commodities used in the manufacturing thereof,* from Chicago, IL: Springfiled, MO; Watsontown, PA; Benton Harbor, MI; McAllen, TX; Paris, IL; and Evansville, IN; to points in the U.S. Supporting shipper: Zenith Radio Corporation, 1900 North Austin Avenue, Chicago, IL 60639.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 151482 (Sub-4–3), filed November 4, 1980. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 3571 Merchandise Dr., Rockford, IL 61109. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract Irregular.* (1) *Machinery and machinery parts, materials and supplies* between S. Beloit, IL, on the one hand, and, on the other, Baltimore, MD, Las Vegas, NV, Jacksonville, FL, Los Angeles, CA, Dallas, TX and New York, NY under continuing contract(s) with Economics Lab. Inc. of S. Beloit, IL; (2) *Water pollution and waste water treatment equipment, material and supplies* between Beloit, WI, on the one hand, and, on the other Oklahoma City, OK, Big Springs, TX, York County, VA, Casper, WY, Trenton, MO, Houston, TX, Smyrna, TN, Ashland, KY, Overland Park, KS, Compton, CA, Grafton, MA, Topeka, KS, Olympia, WA, Willard, OH, Norfolk, NE, Colorado Springs, CO and Jerome, ID, under continuing contract(s) with Peabody-Welles Inc. of Beloit, WI; (3) *Printed material, materials and supplies* between Bloomfield, CT, on the one hand, and, on the other, Chicago, IL, and between Dallas, PA, on the one hand, and, on the other, Chicago and Mt. Morris, IL, under continuing contract(s) with Kable News Co. of Mt. Morris, IL; (4) *Cheese items* as used in gift merchandise distribution, between Monroe, WI, on the one hand, and, on the other, Atlanta, GA and all points in and west of IL, KY, MS, TN and WI, under continuing contract(s) with Swiss Colony Inc. of Monroe, WI. Supporting shippers: Economics Lab. Inc., S. Beloit, IL; Peabody-Welles Inc., Beloit, WI; Kable News Co., Mt. Morris, IL, Swiss Colony Inc., Monore, WI.

MC 108185 (Sub-4–10TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber, Building Materials; Posts and Poles, Wooden,* from the Plantsite of Timber Sales & Distributor at Phil Campbell, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Timber Sales & Distributors, P.O. Box 188, Phil Campbell, AL 35581.

MC 108185 (Sub-4–11TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Steel tanks; conveyors; ovens and electric heating elements,* from the Plantsites of Holcroft Division cf Thermo Electron at Decatur, AL and Livonia, MI to points in AZ, CA, CO, IL, IN, KS, KY, MI, MN, MT, NE, NM, NV, ND, OH, OK, PA, SD, TN, TX, UT, WI and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Holcroft Division of Thermo Electron, 12068 Market St., Livonia, MI 48150.

MC 108185 (Sub-4–12TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber; Building Materials; Posts and Poles, Wooden,* from the plantsite of Associated Forest Materials at or near Hodges, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. Supporting shipper: Associated Forest Materials, P.O. Box 38, Hodges, AL 35571.

MC 143002 (Sub-4–12TA) filed November 4, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *Products manufactured and/or distributed by the Gibson Appliance Corporation* between various points in the U.S. under continuing contract(s) with the Gibson Appliance Corporation. Supporting shipper: Gibson Appliance Corporation, Greenville Appliance Center, Greenville, MI 48838.

MC 111812 (Sub-4–16TA) filed October 29, 1980. Applicant: MIDWEST

COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma, (same address as applicant). *Frozen foods* (except commodities in bulk), from the facilities of Pet, Inc., Frozen Foods Division, located at Lithonia, GA and public warehouses utilized by Pet, Inc., Frozen Foods Division, located at Atlanta, GA to all points in FL, NC, SC, and TN. An underlying ETA seeks 120 days authority. Supporting shipper: Pet, Inc., Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102.

MC 108449 (Sub-4–6TA), filed November 4, 1980. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, P.O. Box 43355, St. Paul, MN 55164. *General Commodities,* except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving points in WI located north and east of a line beginning at the MN/WI border and extending easterly along Interstate Highway 94 to its junction with Interstate Highway 90, thence southerly along Interstate Highway 90 to the IL–WI State Line, as off-route points in connection with carriers' present authorized regular routes. There are 23 supporting shippers.

MC 152314 (Sub-4–1TA), filed November 3, 1980. Applicant: WASCHER'S TRUCKING, INC., 210 Elm St., Box 88, Greenland, MI 49929. Representative: Agnes J. Hautamaki (same as above). *Contract*; Irregular: *Lumber, rough, planed, green, dried and kilndried,* from, to and between points in MI, WI and MN. Supporting shippers: Northern Hardwoods Div., Cooper Range, 300 W. Memorial, Houghton, MI 49931; Silver Forest Products, Inc., 322 Calumet St., Lake Linden, MI 49945; Marquette Timber Co., Box 369, Marquette, MI 49855. An underlying ETA seeks 120 days authority.

MC 152440 (Sub-4–1TA), filed November 3, 1980. Applicant: MOTOR EXPRESS, INC., 6501 West 65th Street, Chicago, IL 60638. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Contract*; Irregular: *Paper and plastic cups, plates, bowls, caps, lids, straws, holders and dispensers; toothpicks; ice cream cones,* between points in the Chicago, IL commercial zone, on the one hand, and, on the other, points in IL, IN, IA, MI and WI. Supporting shippers: Sweetheart Cup, 7575 South Kostner, Chicago, IL 60652.

MC 114362 (Sub-4–2TA), filed November 4, 1980. Applicant: ROBERT J. ECKLUND, d.b.a., ECKLUND TRUCKING, P.O. Box 568, Kiester, MN 56051. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Feed ingredients (except commodities in bulk in tank vehicles),* from points in MN (except Mankato) to points in WY. Supporting shippers: Archer-Daniels-Midland Co., Box 74, Red Wing, MN 55066.

MC 52680 (Sub-4–2TA), filed November 4, 1980. Applicant: D.A. EXPRESS, INC., 11937 S. Page Blvd., Calumet Park, IL 60643. Representative: Daniel C. Sullivan, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Iron and steel articles, wheels and hubs,* between points in Cook, DeKalb, DuPage, Kane, Lake, Putnam and Will Counties, IL and Lake and Porter Counties, IN, on the one hand, and, on the other, points in AL, AR, CO, DC, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NE, NJ, NY, OH, TN, VA, WI and WV. An underlying ETA seeks 120 days authority. Supporting shippers: Schelling Steel Co., Inc., 14100 S. Western Ave., Posen, IL 60469; Jones & Laughlin Steel Corp., P.O. Box 325, Hennepin, IL 61327; Triumph-Metalsource Corp., 8687 S. 77th Street, Bridgeview, IL 60455; Ferraloy Corporation, 12550 S. Stoney Island, Chicago, IL; Interstate Steel Company, 401 Touhy Ave., Des Plaines, IL 60018; Metalock Corporation, 4640 West Fifth Ave., Chicago, IL; Abko Metals & Methods, Inc., 7000 West 60th Street, Chicago, IL 60638; and Welded Tube Company of America, 1855 E. 122nd Street, Chicago, IL 60633.

MC 151482 (Sub-4–4TA), filed November 4, 1980. Applicant: ROCK VALLEY CONTRACT CARRIER, 3571 Merchandise Dr., Rockford, IL 61109. Representative: Henry M. Wick, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular:* (1) *Steel pipe and materials and supplies* from Aliquippa and Sharon, PA and Lorain, OH to Rockford, LaSalle and Peru, IL, under continuing contract(s) with J. D. Mott Co. of Rockford, IL; (2) *hardware, fasteners and related materials and supplies* between Rockford, IL, on the one hand, and, on the other, Greenville, NC and Sikeston, MO, under continuing contract(s) with National Lock of Rockford, IL; (3) *ground clay, materials and supplies* between Rockford, IL, on the one hand, and, on the other, Topeka, KS and McIntyre, Cartersville and Macon, GA, under continuing contract(s) with M. C. Chemical Co. of Rockford, IL; for 270 days. Supporting shippers: J. D. Mott Co., 3261 Forest View Rd., Rockford, IL; National Lock, 1902 7th St., Rockford, IL; and M. C. Chemical Co. 840 Cedar St., Rockford, IL.

MC 18459 (Sub-4–1TA), filed November 4, 1980. Applicant: BRITTON MOTOR SERVICE, INC., 740 Westminster St., St. Paul, MN 55101. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Common;* regular: *General commodities* (except classes A and B explosives and commodities in bulk), from Chicago, IL to Milwaukee, WI, over Hwy I94. There are (8) eight supporting shippers.

MC 103993 (Sub-4–24TA), filed November 4, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Common;* Irregular: *Lumber or wood products,* between Van Wert County, OH, on the one hand, and, on the other, points in IN, MI, IL, and WI. Supporting shipper: H & E Pallett Company, Inc., Middlepoint, OH 45863.

MC 103993 (Sub-4–23TA), filed November 4, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Common;* Irregular: *Trailers,* (except those designed to be drawn by passenger automobiles), between Erie County, PA, and Fulton County, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: Rogers Brothers, Inc., Albion, PA 16401.

MC 108859 (Sub-4–8TA), filed November 4, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Deane F. Rude, P.O. Box 3548, Green Bay, WI 54303. *Cylinders, steel for shipping air, gases or liquids under pressure, NOIBN, new other than coppered or nickled,* between the facilities of Lee Cylinders, Inc., Division of Margo, Inc. located at Cambridge City, (Wayne Co.), IN, on the one hand, and, on the other, Freeport (Stephenson Co.), IL. An underlying ETA seeks 120 days authority. Supporting shipper: Lee Cylinders, Inc., Division of Margo, Inc., 610 East Church Street, Cambridge City, IN 47327.

MC 133689 (Sub-4–45TA), filed November 4, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West Saint Paul, MN 55118. *Noodles, and materials, supplies and equipment used in the manufacture of noodles,* between Cando, ND on the one hand, and, on the other, points in and

east of KS, NE, OK, SD and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Noodles by Leonardo, Cando, ND 58324.

MC 152443 (Sub-4–4TA), filed November 3, 1980. Applicant: DAVID VOLKERT d.b.a. VOLKERT TRUCKING, 3181 170th Street, East, Rosemount, MN 55068. Representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. *Contract;* Irregular: *Such commodities as are dealt in or used by elevators, farms and feed mills* (except machinery), between Minneapolis, MN, and its commercial zone, on the one hand, and, on the other, points in IL, IA, and WI. Restricted to traffic moving under continuing contract with South St. Paul Feed, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: South St. Paul Feed, Inc., 500 Farwell Avenue, South St. Paul, MN 55075.

MC 152445 (Sub-4–1TA), filed November 3, 1980. Applicant: MATHEWS TRANSPORT, INC., Route 1, Box 47, Walworth, WI 53184. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Doors, door frames, components, and parts of doors and door frames, and materials, equipment and supplies* used or useful in the manufacture, sale or distribution of the above commodities between Linn Township, Walworth County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Wilson Industrial Doors, Inc., Route 1, Box 48, Walworth, WI 53184.

MC 114194 (Sub-4–10TA), filed November 3, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., P.O. Box 147, Madison, IL 62060. Representative: Joseph R. Behnken, 1600 Collinsville Ave., P.O. Box 147, Madison, IL 62060. *Dry bulk sugar, from Rocky Ford Co., to Waco, TX.* An underlying ETA seeks 120 days authority. Supporting shipper: H. D. Fox Company, 666 Dundee Road, Suite 1102, Northbrook, IL 60062.

MC 147264 (Sub-4–4TA), filed November 3, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Meats, meat products and meat by-products* and *articles distributed by meat packing houses* from Dodge City, KS to points in the U.S. (except AK and HI). Supporting shipper: Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, KS 61801.

MC 152439 (Sub-4–1TA), filed November 3, 1980. Applicant: WILLETT INTERSTATE SYSTEM, INC., 3901 S. Ashland Avenue, Chicago, IL 60609. Representative: Donald S. Mullins, 1033 Graceland Avenue, DesPlaines, IL 60016. *General commodities* between points in IL, and that portion of IN within the Chicago, IL, Commercial Zone, on the one hand, and, on the other, points in IL, IA, MI, MO, OH, and WI. 16 Supporting shippers.

MC 133689 (Sub-4–42), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General commodities* (except Classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. restricted to traffic originating at or destined to the facilities of Farmers Union Central Exchange. Supporting shipper: Farmers Union Central Exchange, P.O. Box 43089, St. Paul, MN 55164.

MC 133689 (Sub-4–44), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Razor, razor blades, toilet preparations, and related personal care products,* between St. Paul, MN; Andover, MA and LaGrange Park, IL on the one hand, and, points in and east of ND, SD, NE, KS, OK and TX on the other hand. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 133689 (Sub-4–43), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Kitchen cabinets, vanities and equipment, materials, and supplies used in the manufacture and distribution thereof,* between Lakeville, MN on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Merillate Industries, Inc., Airlake Industrial Park, 21755 Cedar Ave. So., Lakeville, MN 55044.

MC 108449 (Sub-4–5TA), filed October 31, 1980. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, P.O. Box 43355, St. Paul, MN 55164. *General commodities* except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving points in MN located south and west of a line beginning at the MN/ND border and extending southeasterly along U.S. Highway No. 52 to its junction with Interstate Highway 35, thence southerly along Interstate Highway 35 to the MN/IA border as off route points in connection with carriers' present authorized regular routes. There are 20 supporting shippers.

MC 124003 (Sub-4–1TA), filed October 31, 1980. Applicant: DAYS MOVING & STORAGE, INC., P.O. Box 668, Elkhart, IN 46515. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Materials, equipment, supplies, fixtures and appliances* used in the manufacture, assembly and furnishing of manufactured housing and recreational vehicles, from Elkhart County, IN to points in MN, WI, ND, SD, and IA. An underlying ETA seeks 120 days authority. Supporting shipper: Armstrong World Industries, Inc., P.O. Box: 3001, Lancaster, PA 17604.

MC 109449 (Sub-4–8TA), filed November 5, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th St., Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *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). (1) From St. Louis County, MN and Douglas County, WI to points in AR, IA, KS, LA, MO, NE, ND, OK, SD, and TX. (2) From points in AR, IL, IN, IA, KS, LA, MI, MO, NE, ND, OH, OK, SD, TX and WI to St. Louis County, MN and Douglas County, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Jeno's Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 152477 (Sub-4–1TA), filed October 31, 1980. Applicant: FISCHER MOTOR LINES, INC., 925 Louisiana, Detroit, MI 48205. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Paper and paper products and materials and supplies used in the manufacture of paper and paper products* between points in GA, IL, IN, KY, MI, MO, OH, TN, and WI. Supporting shipper: Great Lakes Paper Stock Corporation, 30615 Groesbeck Highway, Roseville, MI 48066.

MC 139156 (Sub-4–1TA), filed October 31, 1980. Applicant: FAITH TRUCK LINES, INC., 14326 S. Wood St., Dixmoor, IL 60426. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Acids and chemicals,* from Chicago and Lemont, IL; Hammond, IN, Montague, MI; and Niagara Falls, NY to points on and east of U.S. Hwy 85. Supporting shipper: Rowell Chemical Corp., Forest Park, IL.

MC 136268 (Sub-4–1TA), filed November 3, 1980. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by retail gift and curio shops, catalog distribution centers, and manufacturers of foodstuffs,* between Madison and Monroe, WI, on the one hand, and, on the other, Phoenix, AZ, Los Angeles, San Francisco, and Oakland, CA, Portland, OR, Denver, CO, Lawrence, Worcester, and Wilmington, MA, Maspeth, NY, Parsippany, NJ, Philadelphia and Pittsburgh, PA, Arbutus, MD, Charlotte, NC, Atlanta, GA, Jacksonville and Miami, FL, Shreveport, LA and their commercial zones. An underlying ETA seeks 120 days authority. Supporting shipper: Swiss Colony Stores, Inc. and Swiss Colony, Inc., 1112 Seventh Avenue, Monroe, WI 53566.

MC 40978 (Sub-4–10TA), filed November 4, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. (1) *Office equipment, parts, and filing supplies* from the facilities of Tab Products Company at Mayville, WI, and (2) *filing equipment and related parts* from Allenton, WI, to points in CT, DE, MD, NJ, NY, PA, and DC. Supporting shipper: Tab Products Company, P.O. Box 153 Mayville, WI 53050.

MC 145276 (Sub-4–3TA), filed November 4, 1980. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Avenue SW, Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Such commodities as are dealt in or used by wholesale food distributors, and materials, equipment and supplies used in the manufacture and distribution thereof,* between points in MN, on the one hand, and, on the other, Minnehaha County, SD. Supporting shipper: Continental of South Dakota, A division of CFS, 1109 Zane Avenue North, Minneapolis, MN. 55422.

MC 149418 (Sub-4–2TA), filed November 3, 1980. Applicant: BATESVILLE CASKET COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillebrand Industries, Highway 46, Batesville, IN 47006. *Contract;* irregular: *Swimming pool covers and related equipment* between Salt Lake City, Utah and Indianapolis, Indiana. Restricted to traffic moving under continuing contract with Automatic Pool Covers, Inc. Supporting shipper: Automatic Pool Covers, Inc. 5335 N. Tacoma, Suite 14, Indianapolis, IN 46220.

MC 151738 (Sub-4–1), filed November 3, 1980. Applicant: CONCEPT, INC., c/o Jon Hildre, Cooperstown, ND 58425. Representative: Charles E. Johnson, P.O. Box 2478, Bismarck, ND 58502. *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure product manufacturers and dealers* (except commodities in bulk), from points in CO, KS, NE, WI, IL, IA, MN, and ND, to points in ND, SD, and MT, for 270 days. Supporting shippers: There are 14 shippers.

MC 95876 (Sub-4–8TA), filed November 4, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). (1) *Tractors,* NOIBN, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between Troup County, GA, on the one hand, and, on the other, points in the U.S. An underlying ETA has been filed. Supporting shipper: Whiting Corporation, 1602 Executive Drive, LaGrange, GA 30240.

MC 10373 (Sub-4–1TA), filed November 13, 1980. Applicant: HOWARD MARTIN, INC., 4315 Meyer Road, Fort Wayne, IN 46801. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *Machinery and machine parts and commodities requiring special handling,* from the facilities utilized by the Eaton Corp. at Fort Wayne, IN to Laredo, TX. Supporting shipper: Eaton Corporation, 100 Erieview Plaza, Cleveland, OH 44114.

MC 144323 (Sub-4–3TA), filed November 13, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract;* irregular: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Wisconsin Beef Industries at Eau Claire, WI, to points in CT, DE, FL, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC, under a continuing contract with Wisconsin Beef Industries of Eau Claire, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Wisconsin Beef Industries, 2715 Hogarth St., Eau Claire, WI 54700.

MC 147607 (Sub-4–1TA), filed November 12, 1980. Applicant: OFFUTT TRUCKING CO., Box 126, Glyndon, MN 56547. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Carpet* from points in GA to points in IL, IA and NE. Supporting shippers: Salem Carpet Mills, Inc., Box 220, Ringgold, GA 30736; Len-Dal Carpet & Rug, Inc., Box 39, Chatsworth, GA 30705; Progress Carpets, Inc., Box 787, Chatsworth, GA 30705; and Trend Carpet, a division of W.W.G. Industries, Box 162, Rome, GA 30161.

MC 144867 (Sub-4–1TA), filed November 12, 1980. Applicant: R & J TRANSPORT, INC., 929 North 24th Street, Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Construction materials and supplies* from points in AL, AR, CA, GA, ID, LA, MS, MT, OR, TX, WA, and WY to Green Bay, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Amerhart Ltd., 2455 Century Road, Green Bay, WI 54303.

MC 147567 (Sub-4–1TA), filed November 12, 1980. Applicant: LANGE MOTOR EXPRESS, INC., 14510 Washington St., Woodstock, IL 60098. Representative: Geoffrey F. Walkington (same address as applicant). *Contract* irregular: *Iron and steel articles, materials, equipment and supplies used or useful in the manufacture, sales or distribution of iron or steel articles, (except in bulk),* between the facilities of Evans Products Company/Creco Division on the one hand, and, on the other, points in the Continental U.S. under a contract(s) with Evans Products Co. An underlying ETA seeks 120 days authority. Supporting shipper: Evans Products Company/Creco Division, 14512 Washington St., Woodstock, IL 60098.

MC 133689 (Sub-4–47), filed November 12, 1980. Applicant: OVERLAND EXPERESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Household appliances, equipment, materials and supplies used in the manufacture and distribution thereof,* from, to or between the facilities of General Electric Company Major Appliance Business Group and all points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting Shipper: General Electric Company, Appliance Park, Louisville, KY 40225.

MC 109724 (Sub-4–3TA), filed: November 10, 1980. Applicant: PAUL J.

SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 Springdale Road, Waukesha, WI 53186. Representative: William C. Dineen, Attorney at Law, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; (A) *Sand,* from Troy Grove, IL and Bridgeman, MI to points in the U.S. in and east of ND, SD, NE, KA, OK, and TX under a contract(s) with Manley Bros. of Indiana, Inc. and (B) *Sand and Sand with additives,* from Oregon and Chicago, IL to points in the U.S. in and east of ND, SD, NE, KA, OK, and TX under contract(s) with Acme Resin Corporation. Supporting Shippers: Manley Bros. of Indiana, Inc., P.O., Box 538, Chesterton, IN, 46304 and Acme Resin Corporation, 1401 S. Circle Avenue, Forest Park, IL, 60130.

MC 109724 (Sub-4–2TA), filed: November 10, 1980. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 Springdale Road, Waukesha, WI 53186. Representative: William C. Dineen, Attorney at Law, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; (A) *Sand,* From Fairwater, WI to points in IA, IL, IN, Upper Peninsula of MI and MN, under contract(s) with Faskure Coated Sand Division of Aurora Industries, Inc., and (B) *Sand,* from Fairwater, St. Marie, Taylor and Porterfield, WI to points in the U.S. (except AK and HI), under contract with Badger Mining Corporation. Supporting Shippers: Faskure Coated Sand Division of Aurora Industries, Inc., 1019 Jericho Rd., Aurora, IL, 60506 and Badger Mining Corporation, P.O. Box 97, Fairwater, WI, 53921.

MC 110420 (Sub-4–9TA), filed November 10, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Non-Exempt Food or Kindred Products,* between Iberia and St. Mary Parish, LA and Defiance Co., OH on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 135410 (Sub-4–15TA), filed November 10, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. (a) *Air conditioners, heating equipment, air cleaners and humidifying equipment* and (b) *materials, equipment and supplies* used in the manufacture, distribution and repair of the commodities listed in (a) above, (1) between the facilities of Fedders Corporation at Effingham, IL and points in its commerical zone, on the one hand, and on the other, points in CT, DE, IN, IA, KY, MA, MN, MI, MD, MO, NJ, NY, OH, PA, RI, VA, WI, and WV and (2) from the facilities of Fedders Corporation at Edison, NJ and points in its commercial zone, to points in IN, IL, IA, MI, MO, MN, KS, KY, NE, OH and WI. Supporting shipper: Fedders Corporation, Woodbridge Ave., Edison, NJ 08817.

MC 143982 (Sub-4–1TA), filed November 10, 1980. Applicant: DONALD SCHIRR, Rural Route No. 2, Iuka, IL 62849. Representative: Leslieann G. Maxey, 907 South Fourth Street, Springfield, IL 62703. *General-oil field equipment and supplies* between the states of IL, OH, OK, TX, LA, WY, WV, IN, CA, and KS. Henry 1. Logue Pipe & Oil Field Supplies, P.O. Box 483, Route #1, Salem, IL 62881. Don Gordon Equipment Co., 1206 S. Morgan St., Olney, IL 62450, L & M Associates, Inc., P.O. Box 31, Graham, TX 76046. Goose Creek Oil Company, Inc., Route 50 West, Salem, IL 62881.

MC 111812 (Sub-4–17TA), filed November 10, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Foodstuffs (except commodities in bulk),* from points in WA to points in IN, MN and OH. Supporting shipper: Nalley's Fine Foods, 3303 South 35th Street, Tacoma, WA 98411.

MC 145680 (Sub-4–3TA), filed November 10, 1980. Applicant: C & R TRUCKING LTD., 2955 Packers Avenue, Madison, WI 53704. Representative: Curtis P. Jahn, 2955 Packers Avenue, Madison, WI 53704. *Chemicals, Non-Hazardous, in Barrels, Boxes, Bags or Packages* between Madison, WI, on the one hand, and on the other, points in the U.S. (except AK & HI). Supporting shipper: Gibco Diagnostics Invendex Division the Dexter Corp., 2801 Industrial Drive, Madison, WI 53713.

MC 143776 (Sub-4–11TA), filed November 6, 1980. Applicant: C.D.B., Inc., 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Textile mill products and equipment, materials, and supplies used in the manufacture, sale, and distribution of named commodities* between Gordon, Murray, and Whitfield Counties in GA on the one hand, and, on the other, points and places in the U.S. except AK and HI. Supporting shippers: There are 5 shippers.

MC 29886 (Sub-4–1TA), filed November 10, 1980. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Fred C. Milloy (same address as applicant). *Trucks, truck tractors and truck chassis, and bodies, cabs and parts of, and accessories for such vehicles,* in initial movements, in truckaway service, from Seattle, WA to points in the U.S. (including AK, but excluding HI). Supporting shipper: Kenworth Truck Company, Kirkland, WA 98033.

MC 95876 (Sub-4–9TA), filed November 6, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Lumber, plywood and particleboard,* from Winnfield, Shreveport and Lillie, LA and Huttig, AR, to points in and east of the States of ND, SD, NE, KS, OK and TX. Supporting shipper: Manville Forest Products Corp., West Monroe, LA 71291.

MC 129166 (Sub-4–1), filed November 6, 1980. Applicant: RED WING TRANSPORTATION CORP., 3154 North Service Drive, Red Wing, MN 55066. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036. *Contract,* Irregular: *General Commodities* (except household goods as defined by the Commission and Classes A and B explosives) between all points in the U.S. under continuing contract(s) with Swift & Company. Supporting shipper: Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604.

MC 143776 (Sub-4–12TA), filed November 10, 1980. Applicant: C.D.B., INC., 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Printed matter and equipment, materials, and supplies used in the manufacture, sale, and distribution of named commodity,* between Murray County, GA on the one hand, and, on the other, points and places in the U.S. except AK and HI. Supporting shipper: Georgia Samplebook, Inc., Hwy 41–S. Conn. 3, Dalton, GA 30720.

MC 143776 (Sub-4–13TA), filed November 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between

points in the U.S. restricted to the transportation of traffic originating at or destined to the facilities utilized by Brown Company. An underlying ETA seeks 120-day authority. Supporting shipper: Brown Company, 234 E. Paterson Street, Kalamazoo, MI 49007.

MC 143776 (Sub-4–14TA), filed November 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Foodstuffs, canned, preserved or prepared, other than frozen, NOIBN* from Kenosha, WI, North Chicago and Chicago, IL and Eau Claire, MI and their respective commercial zones to various points in AR, KS, MS, MO, NM, OK, TN and TX. An underlying ETA seeks 120-day authority. Supporting shipper: Ocean Spray Cranberry Incorporated, 7800 South 60th Avenue, Kenosha, WI 43142.

MC 146643 (Sub-4–34TA), filed November 10, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60628. *Contract; irregular; Electrical wire, electrical cable and electrical cord, and materials, equipment and supplies used in the manufacture, sale or distribution thereof,* between Richmond and Fort Wayne, IN; Ivyland, PA; Franklin and Gastonia, NC; Monticello, Lawrenceburg and Tompkinsville, KY; Columbia, MO; Clinton and Dumas, AR; Memphis, TN; Pontotoc, MS; Jena, LA; Brunswick, NJ; Chicago, Peoria and Rockford, IL; Atlanta, GA; Houston, TX; Abingdon, VA; and Niles, MI; on the one hand, and, on the other, points in the U.S. (except AK and HI), An Under a contract(s) with Belden Corp. Supporting shipper: Belden Corporation, 2000 S. Batavia, Geneva, IL 60134. An underlying ETA seeks 120 days authority.

MC 146643 (Sub-35TA), filed November 10, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract; irregular;* (1) *Cathode Ray Tubes and materials, equipment and supplies used in the manufacture and distribution thereof,* between Ottawa, OH, and Rockford, IL, on the one hand, and, on the other, Joplin, MO, and (2) *Steel and steel articles,* between Niles, IL, on the one hand, and, on the other, Arcade, NY, under a contract(s) with Motorola, Inc. Supporting shipper: Motorola, Inc., Automotive & Industrial Electronics Division, 1299 E. Algonquin Rd., Schaumburg, IL 60196. An underlying ETA seeks 120 days authority.

MC 152441 (Sub-4–1TA), filed November 6, 1980. Applicant: WILSON LEASING, INC., 2014 14th Street NW., Rochester, MN 55901. Representative: James M. Christenson, 4444 IDS Center, Minneapolis, MN 55402. *Crushed granite* from: Stearns County, MN to Sioux Falls, SD. Supporting shipper: Gage Bros., 4301 West 12th, P.O. Box 1526, Sioux Falls, SD 57101.

MC 147264 (Sub-4–5TA), filed November 10, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Bananas* from Gulfport, MS to points in AR, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Chiquita Brands, Inc., 15 Mercedes Dr., Montvale, NJ 07645.

MC 147264 (Sub-4–6), filed November 10, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Meats, meat products and meat by-products* and articles distributed by meat packing houses as described in Sections A and C of Appendix 1 to the report in Descriptions on Motor Carrier Certificates, 61 M.C.C. 209 and 755 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Emporia, KS to points in the U.S. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 145394 (Sub-4–12TA), filed November 10, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* irregular; *industrial and commercial air distribution and ventilation equipment* from Madison and Verona, WI, to points in IL, IN, IA, MI, MN, and MO. Restriction: restricted to transportation performed under a continuing contract(s) with Carnes Company, Division of Wehr Corp. An underlying ETA seeks 120 days authority. Supporting shipper: Carnes Company, Division of Wehr Corp., 448 South Main Street, Verona, WI 53593.

MC 133314 (Sub-4–2TA), filed November 10, 1980. Applicant: SILVAN TRUCKING CO., INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Office and institutional furniture, parts, supplies, and materials used in the manufacture* thereof between points in the U.S. Supporting shipper: Antco-Bell Corp., P.O. Box 608, Temple, TX 76501.

MC 128205 (Sub-4–10TA), filed November 10, 1980. Applicant: BULKMATIC TRANSPORT CO., 12000 So. Doty Street, Chicago, IL 60628. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Contract; irregular; lead products, and materials and supplies* used in the manufacture and distribution of lead products, in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Hammond Lead Products, Inc., Hammond, IN. Supporting shipper: Hammond Lead Products, Inc., P.O. Box 308, Hammond, IN 43225.

MC 117730 (Sub-4–8TA), filed November 6, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route No. 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Canned goods,* from the facilities of Woldert Canning, Inc., at Lindale, TX to points in AL, AR, FL, GA, MS, NC, SC, TN, and VA. Supporting shipper: Woldert Canning, Inc., 818 W. Erwin St., Tyler, TX 75710.

MC 119767 (Sub-4–4TA), filed November 7, 1980. Applicant: BEAVER TRANSPORT CO., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Non-exempt food or kindred products,* between Defiance Co., OH and Lake County, IN, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will Counties, IL on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 65781 (Sub-4–1TA), filed, November 7, 1980. Applicant: BARRETT MOVING & STORAGE, INC., 710 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Waterbeds and parts and accessories for waterbeds* from Salt Lake City, UT to Minneapolis, MN. Supporting shippers: Vern Tew Incorporated, 2111 NE Broadway, Minneapolis, MN 55413.

MC 133689 (Sub-4–46), filed, November 7, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Bicarbonate of Soda, washing compounds, cleaning compounds and scouring compounds,* from Onondaga

County, NY to points in that part of the U.S. and on East of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction along the western boundary of Itasca City, MN, thence along the western boundaries of Itasca and Koochiching Counties, MN to the U.S.-Canada boundary line. Supporting shippers: Church & Dwight Company, Inc., 20 Kingsbridge Road, Piscataway, NJ 08854.

MC 30837 (Sub-4–7TA), filed, November 10, 1980. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314–39th Ave., Kenosha, WI 53142. Representative: Fred C. Milloy (same address as applicant). *Trucks, truck tractors and truck chasses, and bodies, cabs and parts of, and accessories for such vehicles,* (1) in initial movements, from Kansas City, MO to points in AK. (2) in initial movements, in truckway service, from Kansas City, MO to points in the U.S. (excluding AK and HI). Supporting shippers: Kenworth Truck Co., P.O. Box 1000, Kirkland, WA 98033.

MC 128270 (Sub-4–6TA), filed, November 13, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Brick,* between AR, KS, MO, OK, and TX on the one hand, and on the other, points in AR, IA, IL, IN, KS, KY, LA, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX and WI. Supporting shippers: Acme Brick Company, Div. of Justin Industries, Inc., Box 425, Ft. Worth, TX 76101.

MC 127812 (Sub-4–3TA), filed, November 13, 1980. Applicant: TYSON TRUCK LINES, INC., 185–5th Avenue S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives),* between points in MN, ND, SD, and WI. An underlying ETA seeks 120 days authority. Supporting shippers: There are 30 statements of support attached.

MC 138890 (Sub-4–1), filed: November 13, 1980. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. (1) *Foodstuffs* from Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH, Wethersfield, CT and West Chester, PA to points within the U.S. (except AK and HI). (2) *Materials, equipment and supplies used or useful in the manufacture, sale or distribution of foodstuffs* from points within the U.S. (except AK and HI) to Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH, Wethersfield, CT and West Chester, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter Blvd., Boise, ID.

MC 143776 (Sub-4–15TA), filed: November 12, 1980. Applicant: C.D.B., INC., 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *General Commodities,* between points in the U.S. on traffic originating and/or destined to facilities utilized by Northern Industrial Warehouse Corp. Supporting Shipper: Northern Industrial Warehouse Corp., 22nd & Commonwealth, N. Chicago, IL 60064.

MC 119726 (Sub-4–5TA), filed: November 13, 1980. Applicant: N.A.B. TRUCKING CO., Inc., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *Pasta Products,* from the plantsite of Noodles by Leonardo, Inc. at Cando, ND to Minneapolis and St. Paul, MN. Supporting Shipper: Noodles By Leonardo, Cando, ND 58324.

MC 145842 (Sub-4–4TA), filed: November 13, 1980. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Beef Carcass, hanging, and boxed meats,* from St. Cloud, MN, to points in IL, IN, IA, MI, NE, OH and WI. Supporting shipper: Landy Packing Co., P.O. Box 670, St. Cloud, MN 56301.

MC 135410 (Sub-4–16TA), filed: November 13, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, North 6th Street Road, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Building materials and accessories (except commodities in bulk),* between the facilities of Ultralum at Wadsworth, OH, Premium Building Products at West Salem, OH and Alside, Inc., in North Hampton township, OH, on the one hand, and, on the other, points in IA. IL, KS, MN, MO, ME and WI. Supporting shipper: Alside, Inc., P.O. Box 2010, Akron, OH 44309.

MC 150782 (Sub-4–2TA), filed November 13, 1980. Applicant: CHAIN O'LAKES EXPRESS, INC., Route 1, Otter Drive, Waupaca, WI 54981. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular: *Foundry castings and foundry products, and materials, equipment and supplies* used in the manufacture of foundry castings and foundry products between Marinette and Waupaca, WI, on the one hand, and, on the other hand, points in MI and OH. Restriction: restricted to transportation performed under a continuing contract(s) with Waupaca Foundry, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Waupaca Foundry, Inc., Tower Road, Waupaca, WI 54981.

MC 118696 (Sub-4–30), filed November 13, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Materials, equipment and supplies* used in the manufacture, sale, and distribution of new furniture, between Orange County, IN, on the one hand, and, on the other, Clark County, OH and Marion County, IL. Supporting shipper: Kimball Piano—Division of Kimball International, Inc., 1549 Royal Street, Jasper, IN 47546.

MC 142062 (Sub-4–4), filed November 13, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract;* Irregular: *Bakery goods,* from Louisville, KY, to points in MD, NC, PA and VA, restricted to the transportation of shipments under a continuing contract or contracts with Ralston Purina Company, Bremner Divsion. Supporting shipper: Ralston Purina Company, Bremner Division, 1001 Standiford Lane, Louisville, KY 40221.

MC 80430 (Sub-4–12TA), filed November 13, 1980. Applicant: GATEWAY TRANSPORTATION, INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith, 455 Park Plaza Drive, La Crosse, WI 54601. *Common regular* routes, *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) Serving all points in the counties of Waupaca and Outagamie, WI, as off route points in connection with carrier's regular route operation from and to Neenah, WI; (2) Serving all points in the counties of Calumet and Manitowoc, WI, as off route points in connection with carrier's regular route operation from and to Sheboygan, WI; (3) Serving all points in the counties of Kenosha and Racine, WI, as off route points in connection with carrier's regular route operation from and to Racine, WI; (4) Serving all points in the county of Washington, WI, as off route points in connection with carrier's regular route operation from and to

Milwaukee, WI; (5) Serving all points in the county of Sauk, WI, as off route points in connection with carrier's regular route operation from and to Madison WI. An underlying ETA seek 120 days authority. There are 25 supporting shippers.

MC 149500 (Sub-4–2), filed November 13, 1980. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Polypropylene agricultural bailer twine,* from Albert Lea, MN, to all points in the U.S. (except AK and HI). Supporting shipper: Bridon Cordage, Inc., Albert Lea, MN.

MC 56270 (Sub-4–4TA), filed November 13, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., 1401 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Fabricated Metal Products* from points in Portage and Outagamie Counties, WI to points in the US in and east of ND, SD, KS, OK, and TX. Supporting shipper: Steel King Industries, Inc., 2700 Chamber Street, Stevens Point, WI 54481.

MC 151448 (Sub-4–2TA), filed November 13, 1980. Applicant: BERNS TRANSPORTATION, INC., 4585 South Harding Street, Indianapolis, IN 46217. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204, (317) 639–4511. *(1) Such commodities as are dealt in by a manufacturer of pharmaceutical, cosmetic, packaging and agricultural products,* and *(2) materials and supplies used in the manufacture of the commodities in (1) above* (except commodities in bulk), between the plantsite and warehouse storage facilities utilized by Eli Lilly & Company in Vermillion, Marion and Tippecanoe Counties, IN, on the one hand, and, on the other, Randolph County (Moberly), MO, and points in GA. Supporting shipper: Eli Lilly & Co., 307 East McCarty Street, Indianapolis, IN 46225.

MC 140265 (Sub-4–4), filed November 13, 1980. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Contract* irregular: *Rubber hosing,* from Bellefontaine, OH to points in AZ, CA, FL, IL, MO, NV, and TX. Restricted to traffic moving under continuing contract with H. K. Porter Company, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: H. K. Porter Company, Inc., 1301 West Sandusky, Bellefontaine, OH 43078.

MC 105045 (Sub-R 4–22), filed November 13, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: Robert P. Cline (same address as above). *Construction and road building machinery,* between Richland Cty., SC, Spartinburg Cty, SC, Lexington Cty., SC and dealers of Champion Road Machinery Int'l Corp., in GA, FL, TN, MS, LA, TX, AZ, AL, NC, VA, MD, WV, IN, MO, and MN. An underlying ETA seeks 120 days authority. Support shipper: Champion Road Machinery Int'l Corp., W. Columbia, SC.

MC 15975 (Sub-4–17TA), filed November 13, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *General commodities,* with the usual exceptions, between the facilities of Advanced Pool Distribution Co., at or near Royal Oak, MI, on the one hand, and, on the other, points in AL, AR, CA, GA, IN, MI, MS, OH, OR, NY, PA, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Advanced Pool Distribution Co., 710 E. Eleven Mile Road, Royal Oak, MI 48071.

MC 136635 (Sub-4–10TA), filed November 13, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46616. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Animal feed and animal feed supplements and materials, equipment, and supplies used in the manufacture of animal feed and animal feed supplements,* between Elkhart, IN on the one hand, and on the other, points in CT, IL, KY, MA, MI, MO, NY, OH, and PA. Supporting shipper: United Pet Food, Inc., Elkhart, IN. An underlying ETA seeks a 120 days.

MC 117730 (Sub-4–8TA), filed November 6, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. *Canned goods,* from the facilities of Woldert Canning, Inc., at Lindale, TX to points in AL, AR, FL, GA, MS, NC, SC, TN, and VA. Supporting shipper: Woldert Canning, Inc., 818 W. Erwin St., Tyler, TX 75710.

MC 145680 (Sub-4–3TA), filed November 10, 1980. Applicant: C & R TRUCKING LTD., 2955 Packers Avenue, Madison, WI 53704. Representative: Curtis P. Jahn, 2955 Packers Avenue, Madison, WI 53704. *Chemicals, Non-Hazardous, in Barrels, Boxes, Bags or Packages* between Madison, WI, on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: Gibco Diagnostics Invendex Division of Dexter Corp., 2801 Industrial Drive, Madison, WI 53713.

MC 111812 (Sub-4–17TA), filed November 10, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Foodstuffs (except commodities in bulk),* from points in WA to points in IN, MN, and OH. Supporting shipper: Nalley's Fine Foods, 3303 South 35th Street, Tacoma, WA 98411.

MC 135410 (Sub-4–15TA), filed November 10, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. (a) *Air conditioners, heating equipment, air cleaners and humidifying equipment* and (b) *materials, equipment and supplies* used in the manufacture, distribution and repair of the commodities listed in (a) above, (1) between the facilities of Fedders Corporation at Effingham, IL and points in its commercial zone, on the one hand, and on the other, points in CT, DE, IN, IA, KY, MA, MN, MI, MD, MO, NJ, NY, OH, PA, RI, VA, WI, and WVA and (2) from the facilities of Fedders Corporation at Edison, NJ and points in its commercial zone, to points in IN, IL, IA, MI, MO, MN, KS, KY, NE, OH and WI. Supporting shipper: Fedders Corporation, Woodbridge Ave., Edison, NJ 08817.

MC 110420 (Sub-4–9TA), filed November 10, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Non-exempt food or kindred products,* between Iberia and St. Mary Parish, LA and Defiance Co., OH on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 128270 (Sub-4–5TA), filed November 10, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley St., East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. *Scrap materials and metal articles,* between points in the U.S. in and west of MI, PA, KY, TN, GA and FL. Supporting shipper: Metal Exchange Corporation, 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 145842 (Sub-4–3TA), filed November 10, 1980. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Meat and meat products, and articles distributed by meat packing houses,* from Liberal, KS, to points in CA, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, ND, OH, SD, TN, TX and WI. Supporting shipper: National Beef Packing Company, Box 1358, Liberal, KS 67901.

MC 152620 (Sub-4–1TA), filed November 13, 1980. Applicant: CUSTOMIZED TRANSPORTATION, 999 North Main Street, Glen Ellyn, IL 60137. Representative: John H. King (same address as applicant). *Contract* irregular: *Commodities as are dealt in by wholesale, retail and chain grocery and food business houses and material, equipment and supplies used or useful in the manufacture, sale and distribution of such commodities* between points in the U.S. (except AK and HI) under a continuing contract(s) with General Foods Corporation. Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625.

MC 144927 (Sub-4–6TA), filed November 13, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Gerald R. Morlan, Box 315, U.S. 24 West, Remington, IN 47977. *Foodstuffs* for the account of the Pillsbury Company from, to, or between Springfield, IL; Terre Haute, IN; Lyndonville, NY; Kansas City, KS; St. Louis, MO; Glencoe, MN; Le Sueur, MN; Blue Earth, MN; Montgomery, MN; Winstead, MN; Buffalo, NY; Mechanicsburg, PA; Fort Wayne, IN; Peoria, IL; Minneapolis, MN; Milwaukee, WI; Chicago, IL; Belvidere, IL; Port Jersey, NJ; Cleveland, OH; and Parkesburg, PA. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Co., 608 Second Ave. South, Minneapolis, MN 55402.

MC 152616 (Sub-4–1), filed November 12, 1980. Applicant: MORTEN TRUCKING INC., 1341 Edgerton Ave., St. Paul, MN 55101. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., St. Paul, MN 55101. *Contract* Irregular *Bottled Wine and Liquor* in case lots from points in MA, NJ, NY, PA, MD, and CA to points in Hennepin and Ramsey County, MN. Supporting shipper: Midwest Wine Inc., St. Paul, MN 55104.

MC 152617 (Sub-4–1TA), filed November 13, 1980. Applicant: A. R. CARRIERS, INC., P.O. Box 793, Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract,* irregular, *railroad safety equipment,* from Louisville, KY, to points in the U.S. in and east of MI, IL, KY, MO, TN and MS. Supporting shipper: Safetran Systems Corp., 7721 National Turnpike, Louisville, KY 40214.

MC 127187 (Sub-4–2TA), filed November 12, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Lumber and lumber products,* from ports of entry on the boundary line between the U.S. and Canada located in ND and MN, to points in IA, IL, IN, MN, MO, ND, SD and WI. An underlying ETA seeks 120 days authority. Supporting shipper: T. W. Hager Lumber Company, 1545 Marquette SW, P.O. Box 9040, Grand Rapids, MI 49509.

MC 13777 (Sub-4–5TA), filed November 12, 1980. Applicant: AAA TRANSPORTATION, INC., 2957 S. East St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular:* (1) *Building materials* and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) above (except commodities in bulk) between points in and east of MN, IA, MO, OK and TX under a contract(s) with Inland Pacific Forest Products, Inc., of Elgin, IL. Supporting shipper: Inland Pacific Forest Products, Inc., 164 Division St., Elgin, IL 60120.

MC 151087 (Sub-4–4TA), filed November 12, 1980. Applicant: AREA INTERSTATE TRUCKING INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *Contract, Irregular Iron and steel articles,* between points in IL, IN, OH, MI, WI, KY, MO, PA, NJ, NY, MD, VA, OK, AR, and TX, under continuing contract(s) with Lally Bros. Div., Fire-Trol Corp. Supporting shipper: Lally Bros. Div. Fire-Trol Corp. 10700 West 159th St., Orland Park, IL 60462.

MC 151299 (Sub-4–2TA), filed November 12, 1980. Applicant: DEPPE LUMBER CO., INC., d.b.a. DEPPE ENTERPRISES, 456 Lynn Street, Baraboo, WI 53913. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Contract Irregular, solar energy equipment and heat recovery systems, and materials, equipment and supplies used in the production and distribution of the aforementioned commodities.* Between points in Sauk County, WI on the one hand and, on the other hand all points in the U.S. (except AK and HI) under a continuing contract(s) with Sun Stone Company, Inc., Baraboo, WI. Corresponding ETA seeking up to 120 days authority. Supporting shipper: Sun Stone Company, Inc., 1532 East Street, Baraboo, Wisconsin 53913.

MC 144879 (Sub-4–2), filed November 12, 1980. Applicant: D AND J TRANSFER COMPANY, Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Tortillas* from Indianapolis, IN, and points in its commercial zone to the facilities of Chi Chi's, Inc., at or near Kansas City and Wichita, KS, Oklahoma City and Tulsa, OK. Supporting shipper: Chi Chi's, Inc., 4334 NW. Expressway, Suite 163, Oklahoma city, OK 73116. An underlying ETA seeks 120 days authority.

The following applications were filed in Region 5. Send Protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 29910 (Sub-5–63TA), filed November 6, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Electrical transformers, parts and supplies, and materials used in the manufacture of transformers and parts;* between Shreveport, LA, and Hickory, NC, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: General Electric Company; P.O. Box 2188, Hickory, NC 28601.

MC 30844 (Sub-5–36TA), filed November 6, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Part 1. *Such merchandise as is dealt in by wholesale and retail hardware stores except commodities in bulk and food stuffs,* between the facilities of Farwell, Ozmun, Kirk & Co. at or near So. St. Paul, MN and Russellville, AR, on the one hand, and, on the other, points in the United States, except AK and HI. Part 2. *Electrical raceways and associated fittings, flexible air ducts, auto loom and all associated component parts and raw material,* between the facilities of The Wiremold Company at West Hartford, CT; Rocky Hill, CT; Pico Rivera, CA and Atlanta, GA, on the one hand, and, on the other, points in the United States (except AK and HI). Restricted to traffic originating at and destined to the above named facilities.

Supporting shippers: Farwell, Ozmun, Kirk and Company, 411 Farwell Ave., So. St. Paul, MN 55075. The Wiremold Co., Woodlawn St., West Hartford, CT 06110.

MC 85451 (Sub-5–1), filed November 7, 1980. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Avenue, Houston, TX 77023. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024. *General commodities (except household goods as defined by the Commission and Classes A & B explosives)* restricted to traffic having a prior or subsequent movement by rail, water or motor vehicle between Houston, Galveston, and Dallas, TX, on the one hand, and on the other, points in the following TX counties:

Anderson	Hill
Angelina	Hood
Aransas	Hopkins
Archer	Houston
Atascosa	Hunt
Austin	Jack
Bastrop	Jackson
Bee	Jasper
Bell	Jefferson
Bexar	Jim Hogg
Blanco	Jim Wells
Bosque	Johnson
Bowie	Karnes
Brazoria	Kaufman
Brazos	Kendall
Brooks	Kennedy
Burleson	Kleberg
Caldwell	Lamar
Calhoun	LaSalle
Callahan	Lavaca
Cameron	Lee
Camp	Leon
Cass	Liberty
Chambers	Limestone
Cherokee	Live Oak
Clay	Madison
Collin	Marion
Colorado	Matagorda
Comal	McLennan
Cooke	McMullen
Coryell	Medina
Dallas	Milam
Delta	Montague
Denton	Montgomery
Dewitt	Morris
Duval	Nacogdoches
Eastland	Navarro
Ellis	Newton
Erath	Nueces
Falls	Orange
Fannin	Palo Pinto
Fayette	Panola
Fort Bend	Parker
Franklin	Polk
Freestone	Rains
Frio	Red River
Galveston	Refugio
Goliad	Robertson
Gonzales	Rockwall
Grayson	Rusk
Gregg	Sabine
Grimes	San Augustine
Guadalupe	San Jacinto
Hardin	San Patricio
Harris	Shelby
Harrison	Smith
Hays	Somerell
Henderson	Starr
Hidalgo	Tarrant
Taylor	Webb
Titus	Wharton
Travis	Wichita
Trinity	Willacy
Tyler	Williamson
Upshur	Wilson
Van Zandt	Wise
Victoria	Wood
Walker	Young
Washington	Zapata

Supporting Shippers: Eleven.

MC 105424 (Sub-5–1TA), filed November 6, 1980. Applicant: PLAGGE TRUCK LINE, INC., 251 18th Street SE., Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309. Contract, irregular. *Sugar (except liquid commodities in bulk or in tank vehicles)* from Mason City, Cedar Rapids and Marshalltown, IA to points in MO, NE, WI, MN and SD. Restricted to a transportation service to be performed under continuing contract(s) with International Distributing Corp. Supporting shipper: International Distributing Corp., 4240 Utah, St. Louis, MO 63116.

MC 107678 (Sub-5–2), filed November 7, 1980. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown, P.O. Box 9698, Houston, TX 77015. *Roofing Material, felspar, quartz, mica* and *crushed stone* from the facilities of Pacer Corporation at or near Custer, SD on the one hand, and on the other, points in AR, AZ, CA, CO, CT, IA, ID, IL, IN, KS, MA, ME, MI, MN, MO, MT, ND, NE, NH, NM, NV, NY, OH, OK, OR, PA, RI, SD, TX, UT, VT, WA, WI, and WY. Supporting shipper: Pacer Corporation, P.O. Box 912, Custer, SD 57730.

MC 113651 (Sub-5–28TA), filed November 6, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B Omaha, NE 68114. *Plastic articles, and equipment, materials, and supplies used in the manufacture and distribution of plastic articles,* between points in Lorain County, OH, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Hi-Mark Plastic Industries, Inc., 1885 Lake Avenue, Elyria, OH 44035.

MC 113908 (Sub-5–26TA), filed November 6, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Foodstuff and feed, enhancers, flavorings and ingredients, non-exempt farm products; non-exempt food or kindred products; chemicals or allied products;* Between (Waldron), Scott County, AR, on the one hand, and, on the other, (Allentown), Lehigh County, PA; (Crete), Saline County, NE; (Muncie), Wyandotte and Johnson Counties, KS; (Topeka), Shawnee County, KS; (Kankakee), Kankakee County, IL; (Mattoon), Coles County, IL; (St. Joseph), Buchanan County, MO; (Jefferson), Jefferson County, WI. Supporting shipper: Bioproducts, Inc., P.O. Box 429, Warrenton, OR 97146.

MC 119774 (Sub-5–4TA), Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Crushed limestone, in bulk,* between points in Burnet County, TX, on the one hand, and, on the other, points in AR. Supporting shipper: Spears Carpet Mills, Inc., P.O. Drawer B, Hope, AR 71801.

MC 125535 (Sub-5–4), filed November 6, 1980. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, P.O. Box 1746, Maryland Heights, MO 63043. Representative: Donald S. Helm (same as applicant). *Contract;* Irregular: *(1) Tile, clay, earthenware, and china fixtures, and (2) commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank vehicles),* between Fayette, AL on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: American Olean Tile Company, 1000 Cannon Ave., Lansdale, PA 19446.

MC 126045 (Sub-5–4TA), filed November 6, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Materials, equipment and supplies used in the manufacture, sale and distribution of office equipment,* from points in IL, IN and MO to points in Muscatine County, IA. Supporting shipper: The Hon Company, 200 Oak Street, Muscatine, IA 52761.

MC 126822 (Sub-5–33TA), filed November 7, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Adhesives and cauge lking compounds, paint, lacquer, varnish, gum, resin, plastic, or adhesive increasing, reducing, removing, thickening or thinning compounds* between points in MA on the one hand, and points in the U.S. on the other, restricted to transportation of shipments for the 3–C Company, a Division of Continental Chemical and Coating

Corporation. Supporting shipper: 3–C Company, 219 New Boston Street, Woburn, MA 01801.

MC 128932 (Sub-5–1), filed November 6, 1980. Applicant: COMMERCIAL STORAGE & DISTRIBUTION CO., 432 Richmond Road, Texarkana, TX 75501. Representative: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, DC 20006. (a) *Beer,* from Fort Worth and Longview, TX to Texarkana, AR and (b) *Oil and lubricants in cases or drums,* from Shreveport, LA and Waco, TX to Texarkana, AR and Texarkana, TX. Supporting shipper: JJS Distributors, 512 East Road, Texarkana, AR 75501.

MC 134262 (Sub-5–1TA) filed, November 7, 1980. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., P.O. Box 385, Boyden, IA 51234. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. *Feed ingredients,* (a) from the Green Bay, WI, commercial zone, to the New York City, NY, commercial zone, and (b) from the New York City, NY, commercial zone, to points in IA. Supporting shipper: Farmers Feed and Supply, Inc., P.O. Box 385, Boyden, IA 51234.

MC 134922 (Sub-5–6TA) filed, November 6, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Traffic Manager, Route 6, Box 15, North Little Rock, AR 72118. *Such commodities as are dealt in and used by wholesale, retail, and discount stores and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk and those which because of size or weight require the use of special equipment),* (1) between points in the United States in and east of ND, SD, NE, KS, OK and TX on the one hand, and, on the other, points in the United States in and west of MT, WY, CO, and NM (except AK and HI) and (2) between points in the United States in and east of ND, SD, NE, KS, OK and TX. There are no supporting shippers. Gateway eliminations only to conserve fuel.

MC 135678 (Sub-5–13TA) filed, November 6, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. (1) *Common salt in individual packets, dry plates or film unexposed, groundpepper in individual packets, plastics other then expanded film sheeting, sugar in boxes,* (2) *Dry chemicals NOI, in sheets not further processed than cut to size; salt subsitutes in packets; table sauces other than dry; cheese; sugar substitutes or swing compound dry,* (3) *Paper or tissues impregnated other than on cards, in foil, machines, devices data processing or parts thereof, released value not exceeding $5/lb.; dining kits; paper napkins; plastic straws; plastic articles; and other articles rated some or lower,* (4) *Cream powder in packets; sodium bisulphite other than in glass, in boxes; sodium bisulphite other than in glass, in barrels; fertilizing compounds in boxes; dry beverage preparation not otherwise indexed,* between points in OK, on the one hand, and, on the other, points in AZ, CA, CO, NM, NV, TX and UT. Supporting shipper: Diamond Crystal Salt Company, 216 NE 12th St., Moore, OK 73160.

MC 140033 (Sub-5–11TA) filed, November 7, 1980. Applicant: COX REFRIGERATED EXPRESS, 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Chemicals, not in bulk,* between Dallas and Midlothian, TX on the one hand, and, points in the U.S. on the other, restricted to traffic originating at or destined to the facilities of Atlantes Industries located at Dallas and Midlothian, TX. Supporting shipper: Altantes Industries, Inc., P.O. Box 921, Midlothian, TX 76065.

MC 140665 (Sub-5–46TA) filed, November 7, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Foodstuffs, (except commodities in bulk),* from Zeeland, MI to points in and west of MT, WY, CO, and NM. Supporting shipper: Acme Food Sales, 6276 Ellis Avenue So., P.O. Box 80525, Seattle, WA 98108.

MC 140709 (Sub-5–3), filed November 7, 1980. Applicant: Fankhauser Bros Inc., 139 Hillside, El Dorado, KS. 67042. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. *Liquid feed ingredients,* Part 1) Between points in Wichita County, KS on the one hand and points in MO and CO on the other hand. Part 2) Between points in Jasper County, MO on the one hand and points in AR, OK and KS on the other hand. Supporting shippers: Standard Chemical Mfg Co. Inc., 701 S 42nd St., Omaha, NE 68102.

MC 144117 (Sub-5–5TA), filed November 6, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Dog and cat food,* from the facilities of Allied Mills, Inc., at Peoria, IL and points in its commercial zone, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT and WA. Supporting shippers: Allied Mills, Inc., 10 South Riverside Plaza, Chicago, IL 60606.

MC 144416 (Sub-5–2TA), filed November 7, 1980. Applicant: C. F. McGRAW, P.O. Box 498, Garden City, KS 67846. Representative: HERBERT ALAN DUBIN, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Foodstuffs* between the facilities of Freezer Services, Inc. of Kansas located at or near Garden City, KS, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shippers: Freezer Services, Inc. of Kansas, P.O. Box 30220, Amarillo, TX 79120.

MC 144603 (Sub-5–28TA), filed November 6, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Raymond C. Dougherty (same address as applicant). *Machinery and supplies; pulp, paper, or allied products; textile mill products, and rubber or miscellaneous plastic products* from Memphis, Jackson, Bristol, TN; Pine Bluff, AR; Dallas, TX, and Atlanta, GA, and points in their respective commercial zones to points in the states of IL, IA, MO and IN. Supporting shippers: Midco Enterprises, Inc., 145 Grand Ave., Kirkwood, MO 63122.

MC 146340 (Sub-5–1TA), filed November 7, 1980. Applicant: D. L. WILLIAMS TRUCKING, INC., P.O. Drawer 818, Hillsboro, TX 76645. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237. *Copper pipe and tubing and scrap copper* between Hillsboro, TX, and Wynne, AR, on the one hand, and, on the other, points in AR, CA, IN, IL, OK, NJ, MI, and TX. Supporting shippers: Spartan Copper Products, Inc., Box 1138 Hillsboro, TX 76645.

MC 146517 (Sub-5–2TA), filed November 6, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12760, Oklahoma City, OK 73157. Contract, Irregular; *General Commodities (except household goods as defined by the Commission, Commodities in bulk, Commodities of unusual value, Classes A & B explosives, and Commodities requiring special equipment)* Between all points in the United States (except AK and HI) under continuing contract(s) with Phillips Petroleum Co., Bartlesville, OK. Supporting shipper: Phillips Petroleum

Co., 734 Adams Bldg., Bartlesville, OK 74004.

MC 151384 (Sub-5–7TA), filed November 6, 1980. Applicant: G and J TRUCKING, INC., 3701 Spradlin Ave., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. (1) *Foodstuffs and such items as are dealt in the wholesale, retail and chain grocery and food business houses,* from points in CA, OR, WA, ID and FL to points in AR; (2) *Paper and plastic containers* between Ft. Smith, AR, on the one hand, and, on the other, points in TX, LA and MS; (3) *circulating air or fuel pumps and materials and supplies used in the manufacture, and packaging circulating air or fuel pumps,* between Sallisaw, OK, on the one hand, and, on the other, points in MN, IA, MO, KS, AR, TX, LA, MS, AL, GA, SC, NC, TN, KY, IL, WS, IN, MI and OH; and (4) *Foodstuffs and such items as are dealt in the wholesale, retail and chain grocery and food business houses,* between the facilities of Griffin Grocery, Van Buren, AR, on the one hand, and on the other, points in CO, IL, IA, KS, KY, LA, MS, MO, NB, OK, TN, TX, IN, OH, AL, GA, and MI. Supporting shipper: American Can Company, 4411 Midland Blvd, Ft. Smith, AR 72904; Tankersley Frozen Food & Fish Co., 109 Grand Ave., Ft. Smith, AR 72904; Holley Special Products Division, 1300 South Opdyke, Sallisaw, OK 74955; and Griffin Grocery Company, P.O. Box 625, 3203 Industrial Park Road, Van Buren, AR 72956.

MC 151687 (Sub-5–3TA), filed November 7, 1980. Applicant: J L S TRUCKING, 614 East 4th Street, Fort Worth, TX 76102. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Paper, printed wrapping paper, paper bags, adhesives, ink, plastic articles and portable toilets,* between all points in the U.S. Supporting shipper: Dixico, Inc., P.O. Box 225116, Dallas, TX 75265.

MC 152021 (Sub-5–5TA), filed November 7, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 1705 E. Irving Blvd., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin, President (same as applicant). Contract: Irregular. *Refractories, acid-proof building cements, building bricks,* between all points in the continental United States, under contract with Breshears and Associates, Inc., Houston, TX. Supporting shipper: Breshears and Associates, Inc., P.O. Box 94184, Houston, TX 77018.

MC 152197 (Sub-5–1TA), filed November 7, 1980. Applicant: SCENIC TRANSPORTATION, INC., 6353 Kingston Court, New Orleans, LA 70114. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *Passengers and their baggage in charter service* from points in LA to all points in TX, LA, MS, AL, AR, GA, FL, and TN. Supporting shipper: 6.

MC 152436 (Sub-5–1), filed November 7, 1980. Applicant: EQUITABLE SHIPYARDS, INC., 3636 I–10 Service Road, P.O. Box 8001, New Orleans, LA 70182. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237. *Passengers, and their tools* between the facilities of Equitable Shipyards, Inc. at or near New Orleans, LA, and points in MS on the south of LA State Highway 26, beginning at the LA-MS state line to its intersection with U.S. Highway 98, thence U.S Highway 98 south and east to the MS-AL state line. Supporting shipper: Equitable Shipyards, Inc., 3636 I–10 Service Road, P.O Box 8001, New Orleans, LA 70182.

MC 152482 (Sub-5–1TA), filed November 7, 1980. Applicant: PREMIER TRUCKING CO. INC., P.O. Box 187, 409 Sixth St., Osawatomie, KS 66064. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, suite 110L, Topeka, KS 66612. *Oilfield machinery, equipment, materials and supplies,* between the Commercial Zone of Chanute, KS on the one hand and points in OH on the other. Supporting shipper: Ken Miller Supply, Inc., P.O. Box 785, 1537 Blashleyville Rd, Wooster, OH 44691.

MC 152535 (Sub-5–1TA), filed November 6, 1980. Applicant: H.T.C. TRUCKING, INC., P.O. Box 547, Bridgeport, TX. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Rock, Sand and Gravel,* between Merryville, LA, on the one hand, and, on the other, points in Tyler County, TX. Supporting shipper: J. A. Tobin Construction Company, Kansas City, KS.

MC 152537 (Sub-5–1TA), filed November 6, 1980. Applicant: WIN WILLIAMS TRUCKING CO., INC., 12942 FM 529, Houston, TX 77041. Representative: Win Williams (same as above). *Iron or steel articles and oilfield equipment* between points in AL, AZ, CO, KS, LA, MO, NM, OK, TX, and WY. Supporting shipper: Gensco, Inc., P.O Box 67, Uvalde, TX 78801; Gulf Steel Corp., P.O. Box 152, Houston, TX, 77020.

MC 3062 (Sub-5–7TA), filed November 10, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). Common, Regular. *General commodities (except household goods as defined by the Commission, and classes A and B explosives)* between Owensboro, KY, and Mayfield, KY, (and commercial zones), serving all intermediate points: over US HWY 60 to JCT US HWY 45 near Paducah, then over US HWY 45 to Mayfield. Applicant intends to tack and interline. Supporting shippers: 30.

MC 29910 (Sub-5–64TA), filed November 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *(1) Fabricated metal products (except ordnance); (2) machinery and materials; (3) equipment and supplies used in the manufacture, distribution and assembly of articles in (1) and (2),* between Kerrville, Houston, San Antonio, and Tyler, TX and their respective commercial zones, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Philco Industries, P.O. Box 950, Kerrville, TX.

MC 29910 (Sub-5–65TA), filed November 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *(1) Foodstuffs; equipment or supplies used in the process, manufacture, or distribution thereof;* between Dixon and Chicago, IL; St. Louis, MO; Cincinnati, OH; Dallas, Houston, Laredo and San Antonio, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Liberto Specialty Co., 830 South Presa, San Antonio, TX 78210.

MC 30844 (Sub-5–37TA), filed November 10, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 East 67th Street, Tulsa, OK 74121. Representative: Robert Kroblin, P.O. Box 21222, Tulsa, OK 74121. *Health care products,* (1) From Sumpter, SC to North Canaan, CT; (2) From North Canaan, CT to Atlanta, GA. Supporting shipper: Becton, Dickson & Co., Stanley Street, East Rutherford, NJ 07070.

MC 52979 (Sub-5–2TA), filed November 10, 1980. Applicant: HUNT TRUCK LINES, INC., West High Street, Rockwell City, IA 50579. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Common regular *General commodities (except Class A and B explosives, commodities in bulk and household goods,* between Rockwell City, IA, and Spencer, IA, serving all points in Clay County as off-route points, over regular routes, from

Rockwell City over U.S. Highway 20 to Junction U.S. Highway 71, then over U.S. Highway 71 to Spencer, and return over the same routes, serving on intermediate points. Applicant intends to tack and interline. Supporting shippers: 7.

MC 98614 (Sub-5–6TA), filed November 10, 1980. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Aviation Fuel,* from Ft. Worth, TX and its commercial zone to Crawfordsville and Little Rock, AR and the commercial zone of each. Supporting shipper: Texaco USA a division of Texaco, Inc., P.O. Box 52332, 1111 Rusk Ave., Room 1141, Texaco Building, Houston, TX 77052.

MC 100666 (Sub-5–10TA), filed November 10, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same as applicant). *Lumber, lumber products and wood products* from Mobile County, AL to points in GA, NC and SC. Supporting Shipper: Timbraz, P.O. Box 2844, Mobile, AL 36601.

MC 102567 (Sub-5–15TA), filed November 10, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Applicant's Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Chemicals, Pulp Mill Liquids and Allied Products,* in bulk, in tank vehicles, between Washington Parish, LA, on the one hand and, on the other, all points in the States of AL, AR, FL, GA, LA, MS, TN, and TX. Supporting Shipper: Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427.

MC 109397 (Sub-5–24TA), filed November 10, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs, (same address as applicant). *Wood or steel elevated flooring,* between points in the U.S. Supporting Shipper: D. L. Kropp & Associates, Inc., P.O. Box 916, 1120 S. Texas St., Lewisville, TX 75067.

MC 124813 (Sub-5–22TA), filed November 10, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles,* from points in IL, IN, MN and NE to points in Wright County, IA. Supporting Shipper: Hagie Manufacturing Company, P.O. Box 273, Clarion, IA 50525.

MC 126118 (Sub-5–35TA), filed November 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are used by and dealt in by manufacturers of electrical wire, cable, and cord sets,* between Lauderdale County, AL and Providence County, RI, on the one hand, and, on the other, points in the U.S. (except AK, HI, ME, NH and VT). Supporting Shipper: International Telephone & Telegraph Royal Electric Division, James Steakem, Director of Distribution & Inventory, 95 Grand Avenue, Pawtucket, RI 02862.

MC 126118 (Sub-5–36TA), filed November 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such merchandise as is used by and dealt in by retail and wholesale institutional suppliers (except commodities in bulk, in tank vehicles),* between Cookeville, TN and its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Institutional Wholesale Co., Inc., Jimmy W. Mackie, President, 25 S. Whitney Ave., P.O. Box 458, Cookeville, TN 38501.

MC 133655 (Sub-5–12TA), filed November 10, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, P.O. Box 2298, Green Bay, WI 54306. *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between Lovelady, TX, and Grand Junction, TN, on the one hand and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Phillips Petroleum Company, 734 Adams Building, Bartlesville, OK 74004.

MC 134467 (Sub-5–14TA), filed November 10, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk),* from the facilities of Pennant Products, Inc., at Rochester, NY, to points in the United States in and east of TX, OK, KS, MO, IA and MN for 270 days. Supporting shipper: Pennant Products, Inc., P.O. Box 23630, Rochester, NY 14692.

MC 134620 (Sub-5–1TA), filed November 10, 1980. Applicant: WHITE CLOUD GRAIN COMPANY, INC., White Cloud, KS 66094. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. *Dry Fertilizer and feed ingredients, in bulk,* From the facilities of Kaiser Agricultural Chemicals at or new Pryor, OK on the one hand and on the other all points and places in KS on and east of U.S. Hwy. 81 and all points in MO on and west of U.S. Hwy. 63. Supporting shipper: Kaiser Agricultural Chemicals, 1105 5th St., P.O. Box 65607, West Des Moines, IA 50265.

MC 135007 (Sub-5–10TA), filed November 10, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Contract irregular *Non-Exempt Food or Kindred Products as described in Item 20 of the Standard Transportation Commodity Code Tariff,* between points in the U.S. under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 135070 (Sub-5–30TA), filed November 10, 1980. Applicant: JAY LINES, INC., 3413 County Line Road, Grand Prairie, TX 75050. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Medical and hospital articles and supplies,* Between all points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Medline, Inc. Supporting shipper: Medline Industries, Inc., 1825 Shermer Road, Northbrook, IL

MC 135797 (Sub-5–82TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Cedar shakes and shingles,* from points in WA to points in the United States (except AK and HI). Supporting shipper: Sunshine Shakes, P.O. Box 1219, Forks, WA 98331.

MC 135797 (Sub-5–83TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Carts, Market baskets, four wheeled, telescoped, or parts thereof,* between points in TN, PA and OK. Supporting shipper: Unarco Commercial Products, P.O. Box 24088, Oklahoma City, OK 73124.

MC 135797 (Sub-5–84TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Containers,* between Tarrant County, TX and points in the United States (except AK and HI). Supporting shipper: Dairypak-Champion International Corporation, 1902 Windsor Place, Ft. Worth, TX 76110.

MC 136668 (Sub-5–1TA), filed November 10, 1980. Applicant: ROGERS VINEGAR COMPANY, INC., West Olive at Frisco Tracks, Rogers, AR 72756. Representative: Michael H. Mashburn, Blair, Cypert, Waters & Roy, P.O. Box 869, Springdale, AR 72764. Contract; Irregular. *Flat glass—not bent,* from the plant site of Gateway Industries, a division of Double Seal Glass Company, located at Rogers, AR, to points in the states of OR, CA, MO, IL, IN, OH, and MI, and from points in the states of CA, MI, WV and TN to the plant site of Gateway Industries, a division of Double Seal Glass Company, located at Rogers, AR. Supporting shipper: Gateway Industries, a Division of Double Seal Glass Company, P.O. Box 417, Rogers, AR 72756.

MC 138328 (Sub-5–17TA), filed November 10, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *Petroleum products (except in bulk),* from Madison County, IL and St. Louis County, MO, to Douglas County, NE. Supporting shipper: Allied Oil & Supply, Inc., 2209 S. 24 St., Omaha, NE 68108.

MC 140665 (Sub-5–47TA), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Foodstuffs and commodities, materials and supplies used in the production or marketing of foodstuffs, (except commodities in bulk),* between the facilities utilized by Ore-Ida Foods, Inc., and its affilitated Companies located in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter Blvd., P.O. Box 10, Boise, ID 83707).

MC 140665 (Sub-5–48TA), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Gum shellac or polishing compounds (except in bulk),* from Attleboro, MA to points in WA. Supporting shipper: Pace National Corporation, 500 Seventh Avenue South, Kirkland, WA. 98033.

MC 140665 (Sub-5–49), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208 Springfield, MO 65804. *Automotive Parts* between Los Angeles, CA and Chicago, IL, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: S & E Industries, Inc., 12221 Rivera Rd., Whittier, CA 90606.

MC 142167 (Sub-5–2), filed November 10, 1980. Applicant: MICHAELSEN TRUCK LINE, INC., 1619 South Garfield, Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309. Contract; irregular; (1) *soybean meal (except liquid commodities in bulk or in tank vehicles)* between the facilities of AGRI Industries at or near Mason City, IA, on the one hand, and on the other, Adams, Burnett, Dunn, Jackson, Juneau, Kenosha, LaCrosse, Langlade, Lincoln, Menominee, Milwaukee, Monroe, Ozaukee, Pepin, Pierce, Price, Rush, St. Croix, Sawyer, Trempealeau, Washburn, and Waukesha Counties, WI, and Becker, Blue Earth, Brown, Dakota, Fairbault, Goodhue, Jackson, Martin, McLeod, Nobles, Otter Tail, Rice, Sterns, Steele, Wabasha, and Watonwan Counties, MN. Restricted to a transportation service to be performed under continuing contract(s) with AGRI Industries. (2) *Meat scraps (except liquid commodities in bulk or in tank vehicles)* between the facilities of Mason City By-Products at or near Mason City, IA, on the one hand, and on the other, Becker, Blue Earth, Brown, Dakota, Fairbault, Goodhue, Otter Tail, Rice, Sterns, Steele, Wabasha, and Watonwan Counties, MN; and between Sioux Falls, SD, on the one hand, and, on the other, the facilities of Mason City By-Products at or near Mason city, IA. Restricted to a transportation service to be performed under continuing contract(s) with Mason City By-Products. Supporting shippers: AGRI Industries, 1605 19th Street, SW, Mason City, IA 50401; Mason City By-Products, 715 15th Street, North, Mason City, IA 50401.

MC 144622 (Sub-5–58TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Frozen meat* from Albert Lea, MN; Cedar Rapids, IA; Cherokee, IA; Chicago, IL; Davenport, IA; Des Moines, IA; Dubuque, IA; East Peoria, IL; Fort Dodge, IA; Kansas City, KS; Lincoln, NE; Logansport, IN; Mason City, IA; Minneapolis, MN; Omaha, NE; St. Louis, MO; St. Paul, MN; Sioux City, IA; Schuyler, NE; Waterloo, IA; Wichita, KS; and Worthington, MN to Greenville, MS. Supporting shipper: Distribuco, Inc., P.O. Box 280, Greenville, MS 38701.

MC 144622 (Sub-5–59TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Foodstuffs (except in bulk)* (1) Between the facilities of American Home Foods located at or near Milton, PA; La Porte, IN; and Vacaville, CA; (2) From the facilities of American Home Foods located at or near Vacaville, CA to TX, OK, and the Chicago, IL Commercial Zone; and (3) From the facilities of American Home Foods located at or near La Porte, IN to Ar, LA, MS, MT, and TN. Supporting shipper: American Home Foods Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 144622 (Sub-5–60TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Electrical appliances, electrical equipment, and parts for electrical applicances and electrical equipment* from Florence, KY to Dallas, TX. Supporting shipper: Square D. Company, 8300 Burlington Pike, Florence, KY 41042.

MC 145441 (Sub-5–32TA), filed November 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, Manager of Commerce and Traffic, P.O. Box 5130, North Little Rock, AR 72119. *Caulking and glazing compounds; adhesive paste chemicals and silicone chemicals; plastic materials and lubricating grease,* from the facilities of Dow Corning Corporation located in MI to points in CT and TX. Supporting shipper: Dow Corning Corp., P.O. Box 1592, Midland, MI 48640.

MC 145441 (Sub-5–33TA), filed November 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, Manager of Commerce and Traffic, P.O. Box 5130, North Little Rock, AR 72119. *Paper and paper products; and plastic and plastic products and commodities used in the manufacture and distribution thereof, (except commodities in bulk),* from the plantsites and facilities of Crown Zellerbach at Greensburg, IN; Orange, TX; Florence, KY; St. Louis and Hazelwood, MO; and points located in AL, AR. CA, FL, GA, KY, MS, NC, OK, OR, SC, TN, TX, VA and WV. Supporting shipper: Crown Zellerbach Corp., One River Street, So. Glens Falls, NY 12801.

MC 146336 (Sub-5–6TA), filed November 10, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *dental,*

hospital and surgical supplies, between North Brunswick, NJ, Chicago, IL, and Sherman, TX, on the one hand, and, on the other, Menlo Park, CA. Supporting shipper: Johnson and Johnson Products, Inc., 501 George St., New Brunswick, NJ 08903.

MC 146457, (Sub-5–3TA), filed November 10, 1980. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Salt,* from the facilities of Domtar Industries, Inc., Sifto Salt Division, at Dubuque, IA to points in IL, MN, MO, and WI. Supporting shipper(s): Domtar Industries, Inc., Sifto Salt Division, 4825 North Scott Street, Shiller Park, IL 60176.

MC 148082 (Sub-5–1TA), filed November 10, 1980. Applicant: KEITH ASMUSSEN, d.b.a. ASMUSSEN RACING STABLES, P.O. Box 1861, Laredo, TX 78041. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Race and show horses, stable equipment and supplies and personal effects of attendants* between points in FL, on the one hand, and points in CA and KY, on the other. Supporting shippers: 13.

MC 148082 (Sub-5–2TA), filed November 10, 1980. Applicant: KEITH ASMUSSEN, d.b.a. ASMUSSEN RACING STABLES, P.O. Box 1861, Laredo, TX 78041. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Race and show horses, stable equipment and supplies and personal effects of attendants* between points in the following states: AZ, CA, CO, KS, KY, LA, NM, OK, SD, TX and WY. Supporting shippers: 11.

MC 148479 (Sub-5–3TA), filed November 10, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main Street, Atchison, KS 66002. Representative: Bob W. Storey, Attorney at Law, 310 Columbian Title Building, 820 Quincy Street, Topeka, KS 66612, (913) 232–9383. *Contract* irregular *Paper products, chemicals, glass bottles, bulk and case alcoholic products, ceramic containers, rum, scotch and tequila, and machinery,* between Pekin, IL on the one hand, and all points and places within the U.S., except AK and HI, on the other. Supporting shipper: Midwest Solvents Co. of Illinois, South Front Street, Pekin, IL 61554.

MC 149026 (Sub-5–14TA), filed November 10, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *(1) Fabricated metal products (except ordnance); (2) machinery and materials, and (3) equipment and supplies used in the manufacture, distribution and assembly of articles in (1) and (2) above,* between Kerrville, San Antonio, Houston and Tyler, TX and their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Philco Industries, Post Office Box 950, Kerrville, TX 78028.

MC 149155 (Sub-5–2TA), filed November 10, 1980. Applicant: JOHN PEPPER d.b.a. MIDWEST CARTAGE COMPANY, P.O. Box, Atchison, KS. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Non-exempt food or kindred products* between Atchison County, KS and points in the U.S. (except AK and HI). Supporting shipper: Lincoln Grain, Inc., P.O. Box 436, Atchison, KS 66002.

MC 150592 (Sub-5–5TA), filed November 10, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Paper and paper products,* between Blue Springs, MO and points in its commercial zone, on the other hand, and, on the other, points in NE. Supporting shipper: Alton Box Co., Frank Dyer, Shipping Supervisor, P.O. Box 70, Blue Springs, MO 64015.

MC 150660 (Sub-5–2TA), filed November 10, 1980. Applicant: BALVANZ TRUCKING, INC., Hubbard, IA 50122. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. (1) *Commercial heating and air conditioning systems, (2) Materials, equipment and supplies used in the manufacture, processing, sale and distribution of the commodities in (1) above,* between Eldora, IA on the one hand, and, on the other, points in the U.S. Supporting shipper: Donco Industries, 1201A Washington Street, Eldora, IA 50627.

MC 150783 (Sub-5–16TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Health food products* between the facilities of Shiloh Farms, Inc., Sulphur Springs, AR on the one hand and, on the other, facilities of Shiloh Farms, Martinsdale, PA. Supporting shipper: Shiloh Farms, Inc., Box 97, Sulphur Springs, AR 72728.

MC 150783 (Sub-5–17TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Paper and paper products, plastic articles, expanded, casual furniture, lighting fixtures, and equipment, materials and supplies used in the manufacture and distribution of the above products.* Between all points located in the states of AL, AR, DE, GA, IL, IN, KS, LA, MI, MS, MO, NJ, OH, OK, PA, TX, AND WI. Restricted to shipments originating at or destined to the facilities of Scott Paper Co. Supporting shipper: Scott Paper Co., Scott Plaza II, Philadelphia, PA 19113.

MC 150783 (Sub-5–18TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Such commodities as are dealt in or used by sholesale and retail discount and variety stores, (except in bulk).* From points in the United States (except AK and HI) to the facilities of Futurama-Saisa and/or Grandalia-Cofsa in TX. Supporting shipper: Futurama-Saisa and/or Grandalia-Cofsa, 525 Canal Street, El Paso, TX 79901.

MC 150949 (Sub-5–5TA), filed November 10, 1980. Applicant: NFI, INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. *Bicycles, bicycle parts and accessories used in the manufacture and distribution of bicycles,* from Ponca City, OK, to points in AR, KS, LA, NM and TX. Supporting shipper: Huffy Corporation, P.O. Box 2269, 2500 Huffy Road, Ponca City, OK.

MC 151154 (Sub-5–17TA), filed November 10, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *Glass Bottles* from Shakopee, MN to Eden, NC and Muscatine, IA. Supporting shipper: Midland Glass Company, Inc., Hwy 101 and Scott Co. Rd. 83, Shakopee, MN 55379.

MC 151504 (Sub-5–3TA), filed November 10, 1980. Applicant: PHELCO, INC., 11841 Missouri Bottom Road, St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. *Pulp, Paper, or Allied Products,* between points and places in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NM, NY, NC, ND, OH, OK, SD, TN, TX, UT, VA, WI, and WY. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558.

MC 151750 (Sub-5–1TA), filed November 10, 1980. Applicant: ARK-LA MUD CO., INC., Route 3, Box 360, Magnolia, AR 71753. Representative: Joe D. Woodward, P.O. Box 727, Magnolia,

AR 71753. *Drilling mud in packages and in bulk,* between the plantsite of Milchem, Inc., in or near Clinton, OK, on the one hand and all points and places in AR, LA, and TX on the other hand.

MC 152589 (Sub-5–1TA), filed November 10, 1980. Applicant: WHITELIGHTNIN' EXPRESS, INC., Post Office Box 167, Ft. Smith, AR 72902. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Extruded Aluminum Parts, Equipment and Supplies used in the manufacture, sale and distribution thereof,* between the facilities of Taber Metals, Inc., at or near Russellville, AR, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contracts with Taber Metals, Inc. Supporting shipper: Taber Metals, Inc., Post Office Box 1418, Russellville, AR 72801.

MC 4943 (Sub-5–1TA), filed November 12, 1980. Applicant: CENTRAL EXPRESS INC., 5601 West Waco Drive, Waco, TX 76703. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. Common, regular *general commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment);* Alternate Route, For Operating Efficiency Only: Between Freeport, TX, and Galveston, TX: From Freeport over State Hwy 288 to its junction with FM Road 2004, thence over FM Road 2004 to its junction with State Hwy 6, thence over State Hwy 6 to its junction with Interstate 45/U.S. Highway 75, thence over Interstate Hwy 45/U.S. Hwy 75 to Galveston, TX, and return over the same route, serving no intermediate points. There are no supporting shippers.

Note.—Applicant intends to tack and interline.

MC 83539 (Sub-5–3TA), filed November 12, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway (P.O. Box 270535), Dallas, TX 75227. Representative: Mr. Thomas E. James, P.O. Box 370535, Dallas, TX 75227. *Wallboard, wallboard paper and starch,* between points in the States of AZ, CA, CO, KS, NV, NM, OK, TX and UT. *Restriction:* Restricted to shipments originating at or destined to the facilities of American Gypsum Company. Supporting shipper: American Gypsum Company, P.O. Box 6345—Station B, Albuquerque, NM 87197.

MC 93840 (Sub-5–1TA), filed November 12, 1980. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Caustic soda in bulk, in tank vehicles,* from Buffalo, IA to Ontonagon, MI. Supporting shipper: Vulcan Materials Company, P.O. Box 7689, Birmingham, AL 35253.

MC 113362 (Sub-5–17TA), filed November 12, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *(1) Ice Machines, Refrigerators, and (2) Equipment, Materials, and Supplies used in the manufacture, sale and distribution of (1) above,* Between Albert Lea, MN and Fairfax, SC on the one hand, and, on the other pts. in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: King-Seeley Thermos Company, 505 Front Street, Albert Lea, MN 56007.

MC 113651 (Sub-5–29TA), filed November 12, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Printing paper and paper products,* from the facilities of DataCom, Inc., Berwick, PA to points in FL, GA, KS, MN, MO, TX, and WI. Supporting shipper: DataCom, Inc., 2500 Maryland Avenue, Willow Grove, PA 19090.

MC 117119 (Sub-5–39TA), filed November 12, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (Same address as applicant). *Wall coverings* (a) from Buffalo, NY and Dayton, OH to Hayward, CA and (b) from Dayton, OH and Hayward, CA to points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper(s): Wallpapers To Go, 3131 Corporate Place, Hayward, CA 94545.

MC 117119 (Sub-5–40TA), filed November 12, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Cleaning and washing compounds, oven cleaners, sodium bicarbonate and sal soda (except in bulk)* from Syracuse, NY to points in AL, AZ, CA, FL, GA, IL, IN, MI, NV, NC, OR, SC, WA, and WI. Supporting shipper(s): Church & Dwight Co., Inc., 20 Kingsbridge Road, Piscataway, NY 08854.

MC 118142 (Sub-5–5TA), filed November 12, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Frozen Foods and Materials and supplies used in manufacture, distribution and sale of foodstuffs,* between all points in the U.S. on the one hand and Forest, MS and Traverse City, MI on the other. Supporting shippers(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684.

MC 118959 (Sub-5–11TA), filed November 12, 1980. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Paper and paper products,* between the facilities of Gilman Paper Company at or near St. Louis, MO, on the one hand, and, on the other, points in IL, IN, MI, and WI. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Mary's, GA 31558.

MC 134755 (Sub-5–11TA), filed November 12, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Cristopher Wilson, P.O. Box 3772, Springfield, MO 65804. *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),* from all points east of the Mississippi River to the facilities of Kan-Mo Shippers Association and its' members in MO and Omaha, NE. Supporting shipper: Kan-Mo Shippers Association, 8300 Northeast Underground Drive, Kansas City, MO 64161.

MC 138686 (Sub-5–2TA), filed November 12, 1980. Applicant: L C W TRUCKING, INC., P.O. Box 728, Crowley, TX 76036. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Malt beverages and advertising materials,* from San Antonio, TX to points in OR and WA. Supporting shipper: Pearl Brewing Company, P.O. Box 1661, San Antonio, TX 78291.

MC 142145 (Sub-51TA), filed November 12, 1980. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. (1) *Lumber, lumber products and building materials;* and (2) *Such commodities as are dealt in or used by distributors of the commodities named in (1) above,* From points in WA, OR, CA, ID, MT, WY, CO, SD, OK, TX, AR, LA, AL, MS, and MO, to points in SD, NE, KS, MO, IA, MN, WI, and IL, under a continuing contract(s) with Roberts & Dybdahl Inc. Supporting shipper: Roberts & Dybbahl Inc., P.O. Box 1908, Des Moines, IA 50306.

MC 143701 (Sub-5–5TA), filed November 12, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Such commodities as are manufacutured, processed, distributed or dealt in by manufacturers or convertors of paper and paper products.* Between points and places in the U.S. Restricted to traffic moving for and on behalf of Westvaco Corporation. Supporting shipper(s): Westvaco Corporation, 299 Park Avenue, New York, NY 10171.

MC 144603 (Sub-5–29 TA), filed November 12, 1980. Applicant: F.M.S. Transportation, Inc., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Raymond C. Dougherty (Same address as applicant). *Non-exempt food or kindred products* between Centralia, Il and its commercial zone, on the one hand, and, on the other, states of AL, AR, CA, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, NO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI (restricted to traffic to, from, or between facilities utilized by Hollywood Brands, Inc.) Supporting shipper: Hollywood Brands, Inc., 836 S. Chestnut St., Centralia, IL 62801.

MC 149408 (Sub-5–2TA), filed November 12, 1980. Applicant: PALTEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Representative: Mr. Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *(1) Beverages; materials, equipment and supplies used in the manufacture, sale and distribution of beveragaes; except commodities in bulk* between San Antonio, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, IN, KS, KY, LA, MS, MO, OK and TN *and (2) Recycleable Materials* from points in AL, AR, CO, GA, IN, KS, KY, LA, MS, MO, OK and TN to Palestine, TX. Supporting shipper: Pearl Brewing Co., 312 Pearl Parkway, San Antonio, TX 78215.

MC 151768 (Sub-5–6TA), filed November 12, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, Att'y., Quaintance & Swanson, P.O. Box 1103, Sioux Falls, SD 57101. (1) *Air regulation equipment; Screws; Fasteners & Tools; Adhesives and Duct Sealer; Insulation Fasteners; Fasteners Machinery,* (2) *materials, equipment & supplies used in sale and distribution of (1) above, (except liquid in bulk),* between Farmingdale, N.Y.; Evandale, OH; Denver, CO; Vernon, CA; Dallas, TX; Wichita, KS; Richmond, VA; Lynchburg, VA; Roanoke, VA; Durham, NC; Greensboro, NC; Charlotte, NC; Middlesex, NJ; Brooklyn, NY; and Baltimore, Md. Supporting shipper: Duro Dyne Corporation, Route 110, Farmingdale, NY. 11735.

MC 152421 (Sub-5–1TA), filed October 10, 1980. Applicant: G. GULLEY TRUCK SERVICE, INC., 180 Arthur Drive, Shreveport, LA 71105. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. *General Commodities, in trailer loads (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* between railroad ramps located at Bossier City and Shreveport, LA, and points within 125 miles of Bossier City and Shreveport, LA not served by ramps, restricted to traffic having a prior or subsequent movement by rail in interstate commerce. Supporting shippers: Nabor's Trailers, Inc., P.O. Box 979, Mansfield, LA 71052. Illinois Central Gulf Railroad, P.O. Box 6098, Bossier City, LA 71111.

MC 152480 (Sub-5–1TA), filed November 12, 1980. Applicant: J. JACK WILMOTH, d.b.a. WILMOTH TRUCKING, 1518 NW 1st Street, Oklahoma City, OK 73106. Representative: J. Jack Wilmoth (same address as applicant). *Iron or steel articles* from OK to AR, AZ, CA, CO, LA, MS, MT, NM, NV, TX and WY. Supporting shipper: Robberson Steel Co., 1401 NW 3rd Street, Oklahoma City, OK 73125.

MC 24784 (Sub-5–2TA), filed November 14, 1980. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Building, construction and roofing materials and such materials and supplies used in the manufacture, sale and distribution of such items* between Jackson County, MO, and points in the U.S. Supporting shipper: Derbigum America Corp., 4821 Chelsea, Kansas City, MO 64130.

MC 26825 (Sub-5–5TA), filed November 13, 1980. Applicant: ANDREWS VAN LINES, P.O. INC., Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Lumber, lumber products and wood products (except commodities in bulk),* from points in AR, CA, ID, LA, MT, OR and WA to points in IA, MN, NE and SD. Supporting shippers: Hardware Wholesalers Incorporated, Lumber Division, P.O. Box 2209, Fort Wayne, IN 46801 and Walter T. Johnson Lumber Company, Inc., 7101 Mercy Road, Suite 308, Omaha, NE 68106.

MC 64189 (Sub-5–2TA), filed November 14, 1980. Applicant: TOPLIFF TRUCK LINE, INC., 746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Tires, tubes, rubber tread, and metal wheel rims* between Beloit, KS, on the one hand, and Memphis, TN; Warren, OH; Findlay, OH; and Dallas, TX, on the other hand. Supporting shipper: Thompson OK Tire Co. Inc., 110 E. 8th Street, Beloit, KS 67420.

MC 75320 (Sub-5–5TA), filed November 13, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the facilities of AMF Wheel Goods at or near Olney, IL as an off-route point in connection with carrier's authorized regular route operations. Supporting shipper: AMF Wheel Goods, P.O. Box 344, Olney, IL 62450.

Note.—Applicant intends to tack and interline.

MC 107496 (Sub-5–38TA), filed November 13, 1980. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, 666 Grand Avenue, Des Moines, IA 50309. *Soda ash and phosphates, in bulk,* from Chicago Commercial Zone to points in Greene County, MO. Supporting shipper: K. O. Manufacturing, Inc., P.O. Box 378, 303 North 10th, Ozark, MO 65721.

MC 114211 (Sub-5–17TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Iron and steel articles,* between points in OH, TX, IL, MN, OK, IA, MI, and CO, on the one hand, and, on the other, points in OH, TX, IL, IA, KS, MO, OK, NE, CO, SD, IN, MN, MI, AR, and WI. Supporting shipper: LaChar Enterprises, Inc., LaChar Steel Supply of Kansas Division, P.O. Box 861, 1236 Columbus Circle, Newton, KS 67114.

MC 114211 (Sub-5–18TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Alcoholic liquor, wine and beer, from* points in IL, MI, IN, KY, NY, NJ, MD, FL, WI and CA, to points in KS. Supporting shipper:

Standard Liquor Corporation, 3629 North Hydraulic, Wichita, KS 67219.

MC 114211 (Sub-5–19TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Iron and steel articles,* from Tigard, OR, to Oakland, CA. Supporting shipper: Fought & Company, Inc., 14255 S.W. 72 Street, Tigard, OR 97223.

MC 114211 (Sub-5–20TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. (1) *Cast iron pipe and fittings and accessories for cast iron pipe,* (a) from Lynchburg, VA, to points in the United States (except ND, SD, NE, MN, IA, WI, IL, TX, OK, KS, MO, MI, IN, OH, AR, LA, NJ, and DE), (b) from Florence, NJ, to points in AL, FL, DC, MD, DE, NJ, PA, NY, CT, RI, MA, NH, VT, and ME, and (c) from Council Bluffs, IA, to points in WA, OR, NV, and CA, and (2) *Materials, equipment and supplies used in the manufacture, distribution and installation of the commodities in (1) above,* (a) from points in the United States (except ND, SD, NE, MN, IA, WI, IL, TX, OK, KS, MO, MI, IN, OH, AR, LA, NJ, and DE), to Lynchburg, VA, and (b) from points in the United States to Florence, NJ. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521.

MC 114284 (Sub-5–9), filed November 13, 1980. Applicant: FOX SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Meats, Meat Products, Meat By-Products and articles distributed by Meat Packing Houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766,* From Cornett Packing Company, Oklahoma City, OK, to points in AR, CA, CO, IL, IA, KS, LA, MN, MO, NE, NV, SD, TX, and WI. Supporting shipper: Cornett Packing Company, 200 S.E. 8th Street, Oklahoma City, OK 73125.

MC 119493 (Sub-5–48TA), filed November 13, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Animal feed supplements* (except in bulk) from Ft. Worth, TX, to points in AL, LA, MS, GA, CO, FL, and TN. Supporting shipper: Robert Esbrandt, Rate Analyst, Hoffman La-Roche Inc., 340 Kingsland St., Nutley, NJ 07110.

MC 119493 (Sub-5–49TA), filed November 14, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Metal and metal articles* from Houston, TX to PA and MI. Supporting shipper: Seyman Rubinson, General Manager, The Pesses Company, Southwest, 2301 S. Main Street, Ft., Worth, TX.

MC 119988 (Sub-5–27TA), filed November 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Luflkin, TX 75901. *Plastic and Zinc, Articles,* Between Cherokee County, TX on the one hand, and, on the other, points in the U.S. Supporting shipper: Nichols-Kusan, Inc., P.O. Box 1191 Jacksonville, TX 75766.

MC 119988 (Sub-5–28TA), filed November 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufking TX 75901. *Plastics, plastic articles, materials, equipment and supplies used in the manufacture and distribution thereof,* between facilities utilized by Hancor, Inc., and its subsidiaries in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Hancor, Inc., P.O. Box 392, Hallettsville, TX 77964.

MC 126118 (Sub-5–37TA), filed November 14, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Rubber or miscellaneous plastic products and machinery and supplies,* between Kansas City, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Illig Industries, Inc., Mark Chase, Office Manager, 537 Central Avenue, Kansas City KS 66101.

MC 126822 (Sub-5–34TA), filed November 13, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). *Primary metal products, fabricated metal products, clay, concrete, glass or stone products, rubber and plastic products, and materials used in their manufacture,* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of Clow Corporation. Supporting shipper: Clow Corporation, 1211 West 22nd Street, Oak Brook, IL 60521.

MC 129908 (Sub-5–36TA), filed November 13, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. *Foodstuffs and kindred items,* between points in the U.S. Supporting shipper: Interstate Restaurant Supply, 901 East 31st St., Los Angeles, CA 90011.

MC 134755 (Sub-5–12), filed November 14, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *Soap, cleaning compounds, and such commodities as are dealt in by wholesale or retail grocery houses,* from Wyandotte County, KS, to points in TX. Supporting shipper: Colgate-Palmolive Company, 1806 Kansas Avenue, Kansas City, KS 66105.

MC 135283 (Sub-5–7) filed November 13, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Frozen breaded vegetables and (2) materials and supplies used in the manufacture and distribution of frozen breaded vegetables (except in bulk)* between the facilities of Delicious Foods, Inc., at or near Grand Island and Lincoln, NE, on the one hand, and, on the other, all points in the United States. Supporting shipper: Delicious Foods, Inc, P.O. Box 730, Grand Island, NE 38801.

MC 141220 (Sub-5–1TA) filed November 13, 1980. Applicant: MOYER TRUCK LINE, INC., P.O. Box 253, Centralia, MO 54240. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068 (816) 781–6000. *Fertilizer and fertilizer ingredients,* between Lawrence, KS on the one hand, and, on the other, points in MO, IA and AR. Supporting shipper: Missouri Farmers Association, Inc., 201 South Seventh Street, Columbia, MO 65201.

MC 141865 (Sub-5–13TA) filed November 13, 1980. Applicant: ACTION DELIVERY SERVICE, IN., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract, Irregular. *Fireplaces and component parts, accessories and equipment for fireplaces,* from the Heatilator Division of Vega Industries, Inc., Mt. Pleasant and Centerville, IA to points in CO, TX, CA, FL, GA, LA, TN, MS, OR, WA, AZ, AR, OK and NM. Supporting shipper:

Heatilator Division of Vega Industries, Inc., box 409, Mt. Pleasant, IA 52641.

MC 142288 (Sub-5–3) filed November 13, 1980. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: Virginia Hamilton (same address as applicant). *Iron Ore,* between OK and TX. Supporting shipper: Martin Marietta Cement Mid-West Division, P.O. Box 45586, Tulsa, OK 74145.

MC 142431 (Sub-5–5TA) filed November 14, 1980. Applicant: WAYMAR TRANSPORT CORP., 1755 S.E. 108th Street, Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Paper products and bagged clay* from Babylon, NY, Fairfield, NJ, Chicago, IL, and McIntyre, GA, to Polk County, IA. Supporting shipper: Frye Copysystems, Inc., Box 854, Des Moines, IA 50304.

MC 143066 (Sub-5–1), filed November 12, 1980. Applicant: B.G.M. TRUCKING, INC., 12634 East Freeway, Houston, TX 77015. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. *Bananas* from Galveston, TX; Mobile, AL; and Gulfport, MS; to points in OK, ND, SD, CO, NE, MN, AR, IL, IA, MO, KS and WI. Supporting shipper: Del Monte Banana Company, Miami, Florida.

MC 144505 (Sub-5–2), filed November 14, 1980. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Mabank, TX 75147. Representative: Thomas L. Cook, Attorney, Hightower, Alexander & Cook, P.C., First Continental Bank Bldg. #301, 5801 Marvin D. Love Frwy., Dallas, TX 75237. *Motorcycles,* (1) Between Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in LA and KS; (2) Between Lincoln, NE, on the one hand and, on the other, points in KS, OK and TX; (3) Between Baton Rouge, LA, on the one hand, and, on the other hand, points in TX and KS. Supporting shippers: Five.

MC 146448 (Sub-5–14TA), filed November 14, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Polydoroff and Miller, P.C., Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Title and materials, equipment and supplies used in the installation, manufacture and sale of tile (except commodities in bulk)* between, on the one hand, Jackson, TN, and, on the other, points in the United States (except AK and HI). Supporting shipper: American Olean Tile Company, 1000 Cannon Avenue, Lansdale, PA 19446.

MC 146494 (Sub-5–2), filed November 13, 1980. Applicant: BILL JACKSON RIG COMPANY, INC., 1813 S.E. 25th Street, Oklahoma City, OK 73143. Representative: Wm. L. Peterson, Jr., 1109 Colcord Building, 15 North Robinson, Oklahoma City, OK 73102. *Oilfield Equipment and supplies,* between all points in the States of OK and TX. Supporting shippers: Mercury Drilling Company, 1701 S.E. 25th St., Oklahoma City, OK 73143.

MC 146778 (Sub-5–1TA), filed November 13, 1980. Applicant: SAENZ BROS. TRUCKING & TOMATO CO., INC., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Building materials, doors and cabinets* from the U.S.-Mexico Border at or near Roma, TX, to points in TX, NM, AZ and CA. Supporting shipper: Igormex—SA, 215 Poniente, Colonia Del Valle Garza, Garcia Nuevo Leon Mexico.

MC 147388 (Sub-5–5), filed November 13, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R. 1, Box 49, St. Libory, NE 68872. Representative Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Beverages (except in bulk), and (2) materials and supplies used in the manufactuere, sale or distribution of beverages, (except in bulk),* (1) from points in IL, IN, and WY to Kearney, NE; and (2) between North Platte, NE, on the one hand, and, on the other, points in the states of CO, IL, IA, KS, OK, SD and WY. Supporting shippers: Keenan's Beverages, Inc., Box 398, Kearney, NE 68847; Great Plains Bottlers and Canners, Inc., P.O. Box 1026, North Platte, NE 69101.

MC 47522 (Sub-5–4TA), filed November 14, 1980. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., P.O. Box 50262, New Orleans, LA 70150. Representative Donald A. Larousse (same as applicant). *General Commodities, (except household goods as defined by commission, and classes A and B explosives),* between St. Mary Parish, LA and Orleans Parish, LA. Restricted to traffic having a prior or subsequent movement by rail or water. Supporting shippers: Lykes Bros. Steamship Co., Inc., 300 Poydras St., New Orleans, LA.

MC 147969 (Sub-5–3TA), filed November 14, 1980. Applicant: JOE S. BOWEN, INC., Highway 264 East, P.O. Box 262, Springdale, AR 72764. Representative John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Gove, AR 72753. *Furniture parts, metal products, and paper products, and materials, equipment, and supplies utilized in the manufacture, transportation, and installation thereof,* (1) From Carthage, Aurora, and Springfield, MO, on the one hand and, on the other, all points and places in AR, LA, MS, TN, TX, OK, KS, NB, IA, NM, AL, KY, IL, CA, OR, WA, UT, AZ, CO, MN, and MI; (2) From all points and places in CA to Portland, OR; Seattle, WA; Phoenix, AZ; Albuquerque, NM; El Paso, TX; and Denver, Co.; (3) From Phoenix, AZ; to all points and places in CO, NM, TX, OR, and WA. Restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc. or its affiliates. Supporting shipper: Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 74836.

MC 150088 (Sub-5–11TA), filed November 14, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, 75234. *(a) Merchandise dealt in or used by retail, chain grocery and food or feed business houses, soy products, dairy based products and (b) raw materials, equipment and supplies used in the manufacture, distribution and sales thereof* between the facilities of Ralston-Purina Company in Oklahoma, Canadian, Caddo, Cleveland and Pottawatomie Counties, OK, on the one hand, and points in Ar, CO, KS and MO, on the other hand. Supporting shipper: Ralston-Purina Company, 13700 North Lincoln Boulevard, Edmond, Oklahoma 73034.

MC 150231 (Sub-5–11TA), filed November 13, 1980. Applicant: MAVERICK TRANSPORTATION, INC., 1803 E. Broad Street, Texarkana, AR 75502. Representative: Steve Williams, 1803 E. Broad Street, Texarkana, AR 75502. *Iron and steel articles,* between points in the following states: AR, AL, IA, IL, IN, LA, MI, MN, MS, MO, KY, NE, OH, OK, TN, TX and WI. Restricted to shipments moving on bills of lading for the account of Barg Steel Company, Little Rock, AR.

MC 150578 (Sub-5–14TA), filed November 14, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: S. Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Meat, meat by-products, and articles distributed by meat packinghouses as described in Sections A & C to Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk), frozen or unfrozen:* (1) from Amarillo, Hereford, Plainview, Dallas and Ft. Worth, TX and Oklahoma City, OK to Laredo, TX, Houston, TX, New Orleans, LA, Tampa and Miami, FL; (2) from IA, NE, MO, IL

and KS to Laredo and Houston TX, New Orleans, LA, Tampa, Miami, FL; (3) from Ft. Worth, TX to St. Louis, MO, Chicago, IL, Detroit, MI, Philadelphia, PA, and Memphis, TN. Restricted to traffic originating or destined to the facilities of Republic Foods, H Bar K Meat Processors or their suppliers. Supporting shippers: Republic Foods, 2633 Swiss Ave., Dallas, TX, and H Bar K Meat Processors, Inc., P.O. Box 4401, Ft. Worth, TX 76106.

MC 150578 (Sub-5–15TA), filed November 14, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: E. Lewis Coffey (same as above). *Such commodities as are dealt in by petroleum distributors (except commodities in bulk)* between points in TX, LA, and OK. Supporting shipper: Dalco Distributors, Inc., 2800 Logan Street, Dallas, TX 75215.

MC 150781 (Sub-5–2TA), filed November 14, 1980. Applicant: JAMES L. GRIGGS, 229 Dorris Drive, Grand Prairie, TX 75051. Representative: William M. Spruce, c/o ARCO Oil & Gas Company, P.O. Box 2819, Dallas, TX 75221. Contract; Irregular. *Motor vehicles, specially prepared, in any condition* between ARCO Oil and Gas Company locations in the states of AR, CO, KS, LA, NM, OK, TX and WY, under a continuing contract with ARCO Oil and Gas Company. Supporting shipper: ARCO Oil and Gas Company, P.O. Box 2819, Dallas, TX 75221.

MC 150783 (Sub-5–19TA), filed November 13, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, Arkansas 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, Arkansas 72756. *Foodstuffs.* Between points in the United States. Restricted to the traffic of Growers, Processors, Manufacturers International Inc. and Forest Park Foods, Inc., Supporting shippers: Growers, Processors, Manufacturers International Inc., 115 Rogers Circle Drive, Springdale, Arkansas 72764. Forest Park Foods, Inc. Box 191, Springdale, Arkansas 72764.

MC 150949 (Sub-5–6TA), filed November 14, 1980. Applicant: NFI, INC., Box 664, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Such commodities as dealt in by retail auto supply and houseold supply stores;* Between points in the states of AZ, KS, NM, OK & TX. Restricted to traffic originating at or destined to the facilities of Western Auto Supply. Supporting shipper: Western Auto Supply Company, Kansas City, MO 64108.

MC 151819 (Sub-5–3TA), filed November 14, 1980. Applicant: CARGO MASTER, INC., 917 S. Harwood St., Dallas, TX 75201. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Artilces dealt in by wholesale, retail and discount stores (except commodities in bulk, meat and poultry),* from the facilities of the Denton Sales Company, Inc. located at Dallas, TX, to points in the U.S. Supporting shipper: Denton Sales Company, Inc., 11210 Zodiac Lane, Dallas, Texas 75229.

MC 152391 (Sub-5–1TA), filed November 14, 1980. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 824 27th Avenue, S.W., Cedar Rapids, IA 52404. Representative: Virginia A. Wilson (same as applicant). Contract, irregular: *Banking equipment and security systems, and parts, materials and supplies used thereof,* between Cedar Rapids, IA on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: LeFebure Corporation, 308 29th St., N.E., Cedar Rapids, IA 52406.

MC 152622 (Sub-5–1TA), filed November 13, 1980. Applicant: DARYL THOMASON TRUCKING, INC., 611 W. Circle Drive, Broken Bow, OK 74728. Representative: BILLY R. REID, 1721 Carl Street, Forth Worth, TX 76103. Contract, Irregular. *Lumber, wood products, building materials, and materials, equipment and supplies* used in the manufacture and distribution of such commodities, between points in the U.S. Supporting shipper: Thomason Lumber Co., P.O. Box 804, Broken Bow, OK 74728.

MC 152629 (Sub-5–1TA), filed November 13, 1980. Applicant: ATLAS WAREHOUSE COMPANY, P.O. Box 456, Burlington, IA 52601. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, D.C. 20001. *Bakery goods,* from the facilities of Midwest Biscuit Co. at Burlington, IA, to points in the U.S. (except AK and HI). Supporting shipper: Midwest Biscuit Co., P.O. Box 888, Burlington, IA 52601.

MC 152643 (Sub-5–1TA), filed November 14, 1980. Applicant: JACK L. COLLINS, 1517 Valley Avenue, Hoxie, KS 67740. Representative: Michael H. Haas, Attorney at Law, 821 Main, Hoxie, KS 67740. *Iron and steel pipe, casings, fittings and accessories.* Between points in TX and OK on the one hand, and on the other, points in the Graham, Ellis, Rooks, Sheridan, Norton, Thomas, Decatur and Rawlins, counties, KS; and counties of Red Willow, Hitchcock, Frontier, Dundy, and Hayes, NE. Supporting shipper: Northwestern Pump & Supply Co., Inc., Box 220, Plainville, KS 67663.

MC 152648 (Sub-5–1), filed November 14, 1980. Applicant: ED RUTLEDGE d.b.a. ED RUTLEDGE TRUCKING, 1824 Ruth Street, Arlington, TX 76010. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Case goods,* from Grand Prairie, TX to points NM, TX, OK, AR, LA, MS, TN, AL, GA, FL, NC, SC, and VA. Supporting shipper: Texas Molding, Inc., P.O. Box 490, Grand Prairie, TX.

MC 152649 (Sub-5–1), filed November 14, 1980. Applicant: RIVERLAND TRUCKING CO., INC., West 10th Ave, Drawer E, Reserve, LA 70084. Representative: Harry M. England (same as above). Contract, Irregular *non-alcoholic beverages and materials, equipment and supplies used in manufacture, distribution or sale of non-alcoholic beverages.* Between Reserve, LA, on one hand, and on the other, points in AL, AR, FL, LA, MS, TN, TX, and GA. Supporting shippers: Coastal Canning Enterprises, Inc, West 10th Ave., Reserve, LA, Sewell Plastics, Inc., 501 W. 10th St., Reserve, LA.

MC 152650 (Sub-5–1TA), filed November 14, 1980. Applicant: SHAVER TRUCKING, INC., 3600 Highway #68 W, P.O. Box 104, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Furniture parts, metal products, and paper products, and materials, equipment, and supplies utilized in the manufacture, transportation, and installation thereof,* (1) From Carthage, Aurora, and Springfield, MO, to Clearfield, UT; Phoenix, AZ; Portland, OR; Seattle, WA; and all points and places in CA; (2) From all points and places in CA to Clearfield, UT; Portland, OR; Seattle, WA; and Phoenix, AZ; (3) From Phoenix, AZ to Portland, OR; Seattle, WA; and Clearfield, UT. Restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc. or its affiliates. Supporting shipper: Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION REGION 6 MOTOR CARRIER BOARD P.O. BOX 7413 SAN FRANCISCO, CA 9412.

MC 145034 (Sub-6–1TA), filed November 3, 1980. Applicant: SKY TRUCKING CO., 2163 Hancock, San Diego, CA 92110. Representative: Milton W. Flack, 8383 Wilshire Blvd., Beverly Hills, CA 90211. *General commodities* (except classes A and B explosives, commodities in bulk, commodities requiring special equipment, and articles

of unusual value) between points in Los Angeles, CA, and its Commercial Zone, restricted to the transportation of traffic having a prior or subsequent movement by water, for 270 days. Supporting shipper: Sea-Land Service, Inc., 669 Panorama Dr., Long Beach, CA 90801.

MC 141804 (Sub-6–92TA), filed November 3, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *General Commodities* (except commodities in bulk, A & B explosives and those commodities requiring special equipment), from all points in the U.S. (except AK & HI) to the facilities of Lash-Tamaron Distributors/Division of Toys "R" Us in Compton and San Jose, CA; Kent, WA; Dallas and Houston, TX and their respective commercial zones, for 270 days. Supporting shipper: Lash-Tamaron Distributors, Division of Toys "R" Us, 395 W. Passaic, Rochelle Park, NJ 07662.

MC 152481 (Sub-6–1TA), filed November 4, 1980. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, UT 84047. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier,* irregular routes: *Chemicals,* from points in CA, and Chicago Heights, IL, Woodstock, TN, Syracuse, NY, Chester, PA, Lawrence, KS, and Houston, TX to points in ID, NV, UT, and WY under a continuing contract with Van Waters & Rogers, a Division of Univar, for 270 days. Supporting shipper: Van Waters & Rogers, 650 West 8th South, Salt Lake City, UT 84104. The Applicant has filed an ETA seeking up to 120 days of authority.

MC 58166 (Sub-6–1TA), filed November 4, 1980. Applicant: GIBSON TRUCK LINES, La Jara, CO 81140. Representative: Nancy P. Bigbee, 1125 University Building, 910 Sixteenth Street, Denver, CO 80202. *General Commodities,* between points in Maricopa County, AZ; Santa Barbara and San Bernardino Counties, CA; Gallatin, Lewis and Clark, Missoula, and Yellowstone Counties, MT; Bernalillo, Colfax, Rio Arriba, Sandoval, San Juan, Santa Fe, Socorro, and Taos Counties, NM; Dallas County, TX; Salt Lake and Tooele Counties, UT; Carbon, Laramie, Natrona, and Sweetwater Counties, WY; and CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Southwest Distributors, Inc., 222 S. Date, Mesa, AZ 85201; Utah Salt Co., 1935 S. Main St., Salt Lake City, UT 84115; Quality Feed Service, Inc., 9186 S. Road 4 East, Monte Vista, CO 81144; Malouff's High Valley Paving Co., P.O. Box 120, Alamosa, CO 81101.

MC 135904 (Sub-6–2TA), filed November 3, 1980. Applicant: ALLTRANS LTD., 4878 Manor Street, Burnaby, BC, Canada, V5G 1B3. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Gas pipeline valves* between points on the international boundary line between the United States and Canada in WA on the one hand, and, on the other, Oakland, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Foothills Pipelines (Yukon) Ltd. 1600–205 Fifth Avenue SW, Calgary, Alberta, Canada T2P 2V7.

MC 152463 (Sub-6–1TA), filed November 3, 1980. Applicant: H & S TRUCKING, INC., 5119 South 302nd Place, Auburn, WA 98002. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *General commodities* (excluding Class A&B explosives), restricted to shipments having a prior or subsequent movement by water, between points in the commercial zones of Seattle, Longview, Tacoma, and Bellingham, WA, Portland, Salem, Medford and Eugene, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Bardahl Mfg, Inc., 4100 NW 52nd, Seattle, WA; Cedar Brook Mill and Tank, 12883 Northrup Way, Bellevue, WA; and Transwest Timber, Inc., 3196 Alki Avenue SW, Seattle, WA 98116.

MC 125650 (Sub-6–1), filed October 31, 1980. Applicant: MOUNTAIN PACIFIC TRUCKING CORPORATION, Route #2, Missoula, MT 59801. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Beverages in containers, except in bulk,* from point in MT to points in ID, OR, UT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Beverage Distributors, Inc., 2010 S. 3rd W. Missoula, MT 59801.

MC 148791 (Sub-6–6TA), filed October 30, 1980. Applicant: TRANSPORT–WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: William S. Richards, P.O.B. 2465, Salt Lake City, UT 84110. *Contract carrier,* Irregular routes: *Commodities as are dealt in or used by wholesale, discount and retail department, discount or variety stores,* from Ontario, CA and its commercial zone, to points in NV and AZ, for the account of K-Mart Corporation, for 270 days per Ex Parte MC–67 (Sub-9). Supporting shipper: K-Mart Corporation, 3100 W. Big Beaver Rd., Troy, MI 48084.

MC 107839 (Sub-6–4TA), filed November 3, 1980. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions to Motor Carriers Certificates, 61 MCC 209 and 766, from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in AL, FL, GA, MS, NC, SC and TN, for 270 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE.

MC 147012 (Sub-6–3TA), filed October 29, 1980. Applicant: T.B.T., INC., P.O. Box 8472, Stockton, CA 95208. Representative: Mark J. Hannon, 1884 West Willow Street, Stockton, CA 95203. *Contract carrier:* Irregular routes: (1) Prefabricated sheet metal ducting, from Stockton, CA to various points in OR, WA, ID, NV and AZ, for the account of United Sheet Metal, Division United McGill Corporation; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Sheet Metal, Division United McGill Corporation, 1747 East Charter Way, Stockton, CA.

MC 111434 (Sub-6–2TA), filed November 3, 1980. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 718—17th Street, Suite 1700, Denver, CO 80202. *Contract carrier,* Irregular routes: *Soda Ash,* from the Stauffer Chemical Plant located at Green River, WY, to the Public Service Company, San Juan Generating Station near Farmington, NM for the account of Public Service Company of NM, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Public Service Company of NM, 414 Silver Avenue, S.W., Albuquerque, NM 87102.

MC 145999 (Sub-6–6TA), filed November 5, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Norman A. Sorensen (same address as applicant). *Drywall Joint Treatment and Texturing Compounds,* from Orange, CA to points in AZ, for 270 days. Supporting shipper: Hamilton Materials, Inc., 345 Meats Ave., Orange, CA 92665.

MC 152491 (Sub-6–1TA), filed November 3, 1980. Applicant: LOUIS HELLER, INC., P.O. Box 990, Burlingame, CA 94010. Representatives: Lloyd M. Roach, P.O. Box 226187, Dallas, TX

75266. John MacDonald Smith, 813 Southern Pacific Building, One Market Plaza, San Francisco, CA 94105. *Contract carrier,* irregular routes, *general commodities* (except household goods, as defined by the Commission, and Classes A and B explosives): Between points and places on the line of the St. Louis Southwestern Railway Co. in NM, OK, KS, TX, and MO, on the one hand, and, on the other hand, points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: St. Louis Southwestern Railway Co., Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

MC 1515 (Sub-6–7TA), filed November 5, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier,* regular routes, *passengers and their baggage and express and newspapers, in the same vehicle with passengers,* between (1) Oneonta, NY and the New York State Thruway at Exit 19 and (2) Cobleskill, NY and the New York State Thruway at Exit 21. For 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack with existing authority. Supporting shipper: There are 12 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 152521 (Sub-6–1TA), filed November 4, 1980. Applicant: FORTRANS, INC., 2892 Foothill Blvd., Oroville, CA 95965. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Building materials, between CA, OR, WA, MT, ID, NV, AZ, UT, WY, CO, NM, TX, OK, KS, NE, AR, TN, IL, IN, MI, and OH, for 270 days. There are 7 supporting shippers. Their statements of support may be examined at the Regional Office listed.

MC 124735 (Sub-6–4TA), filed November 6, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 4th S., Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage,* from points in IL, IN, IA, MO, MI, OH, WI to ports of entry on the U.S.-Canada International Boundary line in ID & WA, restricted to traffic moving in foreign commerce, for 270 days. Supporting shipper: Canadian Wheel Industries, Ltd., 16825 111th Ave., Edmonton, Alberta, Canada.

MC 115523 (Sub-6–7TA), filed October 31, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, Utah 84110. Representative: Melvin J. Whitear (same address as applicant). *Petroleum and Petroleum Products in Bulk,* between points in AZ, CO, ID, NV, NM, UT and WY for 270 days. Supporting shipper: H. S. Sowards & Sons, Inc., Vernal, Utah 84078.

MC 148184 (Sub-6–2TA), filed November 4, 1980. Applicant: SUMMIT TRUCK LINES, INC., 743 Appleway, Coeur d'Alene, ID 83814. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Advertising matter, magazines, periodicals and equipment, materials and supplies used in the printing and publishing business,* between Canton, OH on the one hand, and, on the other, points in and west of WI, IL, AR and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Danner Press Corporation, 1250 Camden Ave. S.W., Canton, OH 44711.

MC 135989 (Sub-6–4TA), filed November 6, 1980. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* irregular routes: *Petroleum products (except in bulk);* From Bradford and Petrolia, PA to points in AZ, CA, ID, NV, UT, MT, NM, and WA under continuing contract(s) with Kendall/Amalie and Sonneborn Divisions, Witco Chemical Corporation, for 270 days. Supporting shipper: Kendall/Amalie and Sonneborn Divisions, Witco Chemical Corporation, 77 North Kendall Ave., Bradford, PA 16701.

MC 152461 (Sub-6–1TA), filed November 6, 1980. Applicant: R. TOM SHEARER, d.b.a. SHEARER TRUCKING, 1905 Taft Avenue, Bremerton, WA 98310. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Mine ore and flue dust* from Butte, MT and Stanley, ID to Pierce County, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Precious Metal Expeditors, Inc., 13010 Northrup Way, Bellevue, WA 98005.

MC 152534 (Sub-6–1TA), filed November 6, 1980. Applicant: CALIFORNIA/AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same address as applicant). *Contract carrier:* irregular routes: *Lumber Mill Products* and *Wood Products,* between points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hampton Lumber Sales Company, 400 Sunset Business Park, 9400 S.W. Barnes Road, Portland, OR 97225.

MC 124679 (Sub-6–34TA), filed November 6, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 S., Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Cleaning compounds, lubricants, chemicals* and *such merchandise as is dealt in by wholesale, retail, variety and grocery stores,* except in bulk between points in the U.S., restricted to traffic originating at or destined to the facilities of the Southland Corporation, its affiliates, subsidiaries and vendors, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Southland Corporation, 5850 West Amelia Earhart Drive, Salt Lake City, UT 84116.

MC 127539 (Sub-6–2TA), filed November 5, 1980. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. E., Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Drugs, medicines and toilet preparations; plastic articles; beverages; dessert preparations and foodstuffs; health and beauty products and their equipment; washing, cleaning and scouring compounds; mops and brooms,* between the Seattle, WA commercial zone on the one hand, and, on the other, the Portland, OR commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bristol-Myers Company, 345 Park Ave., New York, NY 10022.

MC 133270 (Sub-6–1TA), filed November 3, 1980. Applicant: OREGON FOOD EXPRESS, INC., P.O. Box 17170, Portland, OR 97217. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *Foodstuffs* and such commodities as are dealt in by grocery and food business houses, in mechanically refrigerated equipment, from Portland and McMinnville, OR, to Spokane, WA, for 270 days. Supporting shipper(s): Swift and Company, 115 West Jackson Blvd., Chicago, IL 60604 and Interstate meat Dist., Inc., P.O. Box 298, Clackamas, OR 97015. Underlying ETA seeks 120 days' authority.

MC 63652 (Sub-6–12TA), filed November 4, 1980. Applicant: BN TRANSPORT INC., P.O. Box 22694—Wellshire Station, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307.

(1) *Spices, seasonings, flavorings, mustard and mustard products* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distrubution of the commodities named in (1) above between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by The Baltimore Spice Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Baltimore Spice Company, POB 5858, Baltimore, MD 21208.

MC 152528 (Sub-6–1TA), filed November 5, 1980. Applicant: PIGGYBACK TRANSPORT, INC., 1355 5th Street, Oakland, CA 94607. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *General commodities* between points in: San Francisco, Alameda, San Mateo, Santa Clara, Contra Costa, Marin, Sonoma, Mendocino, Lake, Napa, Kings, Santa Cruz, Solano, Yolo, Sacramento, San Joaquin, Stanislaus, Monterey, San Benito, Merced, Madera, Fresno, Tulare, Amador and Kern Counties, CA, for 270 days. Restricted to traffic having a prior or subsequent movement by rail in interstate or foreign commerce. *Supporting shippers:* There are 15 supporting shippers. Their statements may be examined at the regional office listed.

MC 85255 (Sub-6–2TA), filed November 5, 1980. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: James F. Walker, 3720 Airport Way S., Seattle, WA 98134. *Mineral Fiber, Mineral Fiber Products and insulating materials,* Between the U.S. Gypsum Company located in Pierce County, WA and points in OR for 270 days. Supporting shipper: U.S. Gypsum Company, 101 So. Wacker Drive, Chicago, IL 60606.

MC 8758 (Sub-6–1TA), filed November 3, 1980. Applicant: CITIZENS TRANSPORTATION OF CALIFORNIA, INC., 1670 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Shipper owned tank truck or trailer vehicles* in or on carrier's special equipment and by towing empty or loaded with water or with chemical compounds for field storage and dispensing; *bridge builders, contractors or graders outfits; electrical equipment and cable; iron or steel towers and parts; knocked down steel buildings or parts thereof; structural steel viz.: racks, frames, angles, beams and reinforcing steel and iron or steel articles used in construction and repair of construction; machinery, equipment, lumber, aluminum and aluminum products used in construction and repair of construction; supplies, materials and equipment used in the manufacture of aluminum building products;* and *door frames and doors complete, metal store fixtures, clothing display racks and materials used in the manufacture of such commodities* between points and places in AZ, CA, NM, and NV for 270 days. Supporting shipper: There are fourteen shippers. Their statements may be examined at the Regional office listed.

MC 152538 (Sub-6–1TA), filed November 3, 1980. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. Box 26587 Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006. *Hides, green, salted or processed* from Boise, Idaho, and Oakland, Iowa, to points in Colorado, Nebraska, Oregon, and Washington, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Philadelphia Hide Brokerage Corporation, 249 South 24th St., Phila., PA 19103.

MC 7228 (Sub-6–1TA), filed November 3, 1980. Applicant: COAST TRANSPORT, INC., 1906 S.E. 10th Avenue, Portland, OR 97214. Representative: Jerry Cinnera (same as applicant). *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business and materials, supplies and equipment used in the conduct of such businesses,* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shipper: North Pacific Canners & Packers Inc., P.O. Box 02133, Portland, OR 97214.

MC 31307 (Sub-6–1TA), filed November 3, 1980. Applicant: COLUMBIA RIVER TRUCK CO., INC., P.O. Box 1001, Camas, WA 98607. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. *Common carrier:* regular routes: *General Commodities,* except those of ususual value, classes A and B explosives and household goods, between Home Valley, WA and Bingen, WA: From Home Valley over WA Hwy 14 to Bingen, and return over the same route, serving all intermediate points and off-route points of White Salmon and Lyle, WA; those in Klickitat County, WA west of the Klickitat River; and, those in Skamania County south of 46° N. latitude, for 270 days. Applicant proposes to tack with MC–31307 and subs and MC–F–13770F at Home Valley, WA; and proposes to interline with existing carriers at Portland, OR Supporting shipper: There are nine shippers. Their statements may be examined at the Regional office listed.

MC 732 (Sub-6–3TA), filed November 3, 1980. Applicant: ALBINA TRANSFER CO., INC., 4320 N. Suttle Rd., Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Roofing* and *roofing materials,* (1) from Portland, OR to San Leandro, CA: and, (2) from Santa Clara, CA to points in OR and WA, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Owens-Corning Fiberglas, 3750 N.W. Yeon, Portland, OR.

MC 139906 (Sub-6–46TA), filed November 3, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Foodstuffs canned or preserved and dry cereal,* from Canajoharie, NY, to points in TX for 270 days. Supporting shipper: Beech-Nut Foods Corporation, 2 Church Street, Canajoharie, NY 13317.

MC 134820 (Sub-6–1TA), filed November 6, 1980. Applicant: R.S. ALBRIGHT, INC., P.O. Box 81025, Seattle WA 98108. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Contract Carrier,* Irregular routes: *Paper and Paper Products and Equipment, Materials and Supplies used in the manufacture and distribution of Paper and Paper Products,* between WA and OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shipper: Scott Paper Co., Scott Plaza, Philadelphia, PA 19113.

MC 152600 (Sub-6–1TA), filed November 10, 1980. Applicant: ROMUALD CHMURA d.b.a. ALL CONTINENTS TRAVEL, 5717 North 7th Street, Phoenix, Az. 85014. Representative: Romauld Chumura (same address as applicant). *Passengers with baggage* in same vehicle, Round Trip Charter and special operations from Maricopa County, AZ to Clark County, NV, Orange County, CA, Los Angeles County, CA, San Diego County, CA and return to Maricopa County, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 7 supporting shippers. Their statements may be reviewed at the Region Office listed above.

MC 152601 (Sub-6–1TA), filed November 10, 1980. Applicant: APPLEGATE DRAYAGE CO., 325 N. 5th St., Sacramento, CA 95814. Representative: Michael T. Applegate

(same address as applicant). *Contract Carrier,* Irregular routes: *General commodities* between Washoe County, NV and Alameda County, CA for the account of Laird's, for 270 days. Supporting shipper: Laird's Business Forms, 345 Coney Island Dr., Sparks, NV.

MC 129414 (Sub-6–1TA), filed November 12, 1980. Applicant: BELL & MOONEY, P.O. Box 925, Gillette, WY 82716. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. *Petroleum and petroleum products,* between Scottsbluff, NE on the one hand, and, on the other, Gillette, WY, for 270 days. Supporting shipper: Farmers Co-operative Association of Gillette, Wy, P.O. Box 3001, Gillette, WY 82716.

MC 152584 (Sub-6–1TA), filed November 3, 1980. Applicant: BOWER TRANSPORTATION SERVICES, INC., P.O. Box 609, Vancouver, WA 98666. Representative: Jerry R. Woods, Suite 1600, One Main Place, 101 SW Main Street, Portland, OR 97204. *Contract carrier:* Irregular routes: *ceiling systems, insulation products, wallboard, and equipment, materials, and supplies used in the installation thereof (except commodities in bulk)* from Seattle, WA to points in OR, under continuing contracts with Armstrong World Industries, Inc., for 270 days. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 152238 (Sub-6–2TA), filed November 10, 1980. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same as applicant). *(1) Roofing materials, (2) asbestos cement pipe, (3) plastic pipe,* (1) from Contra Costa County, CA to points in OR, WA, ID, UT, NV and AZ, (2) from San Joaquin County, CA to points in OR, WA, ID, UT, NV and AZ, (3) from Umatilla County, OR to points in CA, OR and WA, for 270 days. Supporting shipper: C. Adler, RTM, Johns-Manville Sales Corporation, 2600 Campus Dr., San Mateo, CA 94403.

MC 144951 (Sub-6–1TA), filed November 10, 1980. Applicant: RAYMOND G. AND BARBARA A. CEBULSKI, d.b.a. CEBULSKI TRUCKING, P.O. Box 103, Seeley Lake, MT 59868. Representative: John R. Davidson, Room 805—First Bank Building, Billings, MT 59101. *Lumber and wood products* from Missoula County, MT to points in the states of AZ, AR, CA, CO, ID, IL, IA, KS, MN, MO, NE, NV, ND, NM, OK, OR, SD, TX, UT, WA, WI, and WY, for 270 days. Restricted against the transporting of traffic originating at Missoula, MT. Supporting shippers: There are five (5) shippers supporting the application. Their statements may be examined at the Regional Office listed.

MC 140943 (Sub-6–1TA), filed November 6, 1980. Applicant: CHEYENNE ROAD TRANSPORT, LTD., 232 38th Ave., N.E., Calgary, Alberta, Canada T2E 2M2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Lumber, lumber mill products, and wood products* from CA, OR, and WA to points along the international boundary line between the U.S. and Canada in WA, ID, MT, and ND, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 8 shippers. Their statements of support may be examined at the Regional Office listed.

MC 152611 (Sub-6–1TA), filed November 10, 1980. Applicant: DANIEL P. DUKES, d.b.a. DAN DUKES TRUCKING, 6541 Sutter Ave., Carmichael, CA 95608. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Lumber; and, wood products,* between Long Beach, CA and its commercial zone on the one hand, and, on the other, points in OR, WA, and ID, for the account of National Plywood Incorporated, for 270 days. Supporting shipper: National Plywood Incorporated, 2807 El Presidio, Long Beach, CA. 90810.

MC 152549 (Sub-6–1TA), filed November 7, 1980. Applicant: BOB GARCIA, d.b.a. B. GARCIA TRUCKING, 16234 Mallory Drive, Fontana, CA 92335. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Aluminum ingots and scrap aluminum, having a subsequent movement by water,* from Fontana, CA to Los Angeles, CA and its commercial zone, for the account of U.S. Reduction Company, for 270 days. Supporting shipper: U.S. Reduction Company, 11600 Etiwanda Ave., Fontana, CA 92325.

MC 152242 (Sub-6–1TA), filed November 10, 1980. Applicant: STEVE W. GLEASON, 620 W. Market St., Aberdeen, WA 98520. Representative: Steve W. Gleason (same address as applicant). *Contract Carrier,* Irregular routes: *Liquid Sugar,* between Salem, OR and Olympia, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Columbia Beverage Inc., P.O. Box 7545, Olympia, WA 98507.

MC 1515 (Sub-6–8TA), filed November 12, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: P. L. Wilson (same address as applicant). *Common carrier,* regular routes, *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, between the junction of MI Hwy 3 and MI Hwy 59 near Mt. Clemens, MI, and the junction of MI Hwy 59 and Interstate Hwy 96 near Howell, MI: From the junction of MI Hwy 3 and MI Hwy 59 over MI Hwy 59 to junction Interstate Hwy 96 and return over the same route, serving all intermediate points for 270 days. Condition: This authority shall be of no further force and effect upon termination of the carrier's contract with the state of Michigan, Department of State Highways and Transportation. Supporting shipper: Michigan Department of Transportation, Bureau of Urban and Public Transportation, Intercity Division, 425 West Ottawa St., Lansing, MI 48909.

MC 110754 (Sub-6–1TA), filed November 10, 1980. Applicant: REX HARRIS, INC., Star Route 36, Box 80, Havre, MT 59501. Representative: Robert R. Harris (same as applicant). *Oilfield equipment* in all counties in ND west of and including: Emmons, Burleigh, Sheradin, Pierce and Rollette counties for 270 days. There are six supporting shippers. Their statements may be examined at the Regional Office listed.

MC 148979 (Sub-6–1TA), filed November 10, 1980. Applicant: ROBERT JOHN ENTERPRISES, INC. d.b.a. PACIFIC TRANSPORT CO., 24500 S. Vermont Ave., Harbor City, CA 90710. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Iron or steel articles,* (1) Between CO, NE, NM, TX, and UT, and (2) between AZ, CA, and NV, on the one hand, and, on the other, CO, NE, NM, TX, and UT, for 270 days. Supporting shipper: Crest Steel Corp., and Marcrest Pacific Co., Inc., 24724 S. Wilmington Ave., Wilmington, CA 90744.

MC 52298 (Sub-6–1TA), filed November 4, 1980. Applicant: KARST'S STAGE, 511 North Wallace, Bozeman, MT 59715. Representative: Richard Vollmer (same as applicant). *Passengers and their baggage and personal effects/ equipment,* in same vehicle, in charter service, beginning and ending in Lewis & Clark County, MT to all points in the U.S. and/or the international boundary lines between the U.S., Canada, and Mexico for 270 days. Applicant intends to tack. Supporting shipper: Helena Senior Citizens, 201 South Main, Helena MT 59601.

MC 124735 (Sub-6–5TA), filed November 4, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 4th So., Seattle, WA 98134. Representative: George R.

LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *General commodities (except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, commodities which because of their size or weight require the use of special equipment),* from points in the U.S. (excluding AK and HI) to Seattle, WA, and its commercial zone, for 270 days. Supporting shipper: Puget Sound Shippers Assn., Room 220, Sea-Tac International Airport, Riverton Heights Branch, Seattle, WA 98188.

MC 121759 (Sub-6–1TA), filed November 12, 1980. Applicant: KIMKRIS TRUCKING CO., INC., 1101 Wright Avenue, Richmond, CA 94804. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, equipment and supplies* utilized in the manufacturing, sale and distribution of such commodities (except commodities in bulk and frozen commodities) between points in Fairfield, San Francisco, Alameda and/or Richmond, CA, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 152554 (Sub-6–1TA), filed November 7, 1980. Applicant: LOBO, INC., 202 94th St., SW, Albuquerque, NM 87112. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Packaged petroleum products,* between points in LA, NM, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Trans-Mountain Oil Co., Inc., P.O.B. 513, Canutillo, TX 79835; Ever Ready Oil Co., Inc., 101 Anderson SE, Albuquerque, NM 87102; Wesley Martin Oil Co., Inc., P.O.B. 1166, Las Cruces, NM 88001.

MC 115648 (Sub-6–1TA), filed November 7, 1980. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. *Lumber and lumber products* from points in ID and MT to points in IA, NE and KS for 270 days. Supporting shipper: Edward Hines Lumber Co., P.O. Box 308, Council Bluffs, IA 51502.

MC 142686 (Sub-6–21TA), filed November 7, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes: *Prefabricated metals and plastic articles, materials and supplies used in the manufacture thereof,* Between Ambridge, PA, Connorsville, IN, Zelienople, PA, Batayia, OH, Stockton, CA on the one hand, and, between points in the U.S., for 270 days. Supporting shipper: H. H. Robertson Co., Inc., 400 Holiday Drive, P.O. Box 2793, Pittsburgh, PA 15230.

MC 152608 (Sub-6–1TA), filed November 10, 1980. Applicant: NICHOLSON TRUCKING, INC., 1532 S. E. 3d Avenue, Portland, OR 97214. Representative: Paul C. Nicholson (same as applicant). *Contract Carrier:* irregular routes: (1) *Vanities, Tops, Bases and Tubs,* between points in Los Angeles County, CA; Newton County, MO; Mahoning County, OH; and points in the U.S., except AK and HI; (2) *Vehicle Parts, and Materials* used in their manufacture, between Multnomah County, OR and points in the U.S., except AK and HI; (3) *Stone Products, Particleboard, and materials* dealt in by distributors of stone products, between Linn County, OR; Platte County, WY; Missoula County, MT; St. Lawrence County, NY and points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: A. Merril Chaffin, SCS INDUSTRIES, INC., 12836 Arroyo Street, Sylmar, CA 91342; Merv I. Jahn, AMERICAN METAL PRODUCTS COMPANY, 1532 S E 3d Avenue, Portland, OR 97214; John A Mangold, MUSTARD SEED STONE & SUPPLY COMPANY, P.O. Drawer 4408, Orchards, WA 98662.

MC 151312 (Sub-6–4TA), filed November 6, 1980. Applicant: NORTHWEST FREIGHTLINES, INC., East 604 Montgomery Ave., Spokane, WA 99207. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. *Contract Carrier: Irregular Routes: Used brick,* from points in MT, to points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers(s): Jensen Brick Company, P.O. Box 165, Clarkston, UT 84305.

MC 127539 (Sub-6–3TA), filed November 6, 1980. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue, E. Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington Street, Seattle, WA 98104. *General commodities (except those of unusual value, Class A and B explosives, and commodities in bulk),* between points in the commercial zone of Seattle, WA on the one hand, and, on the other, points in CA, OR, WA, ID, UT, NV and AZ. Restricted to traffic having a prior or subsequent movement by water for 270 days. Supporting shipper: Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124.

MC 140163 (Sub-6–1TA), filed November 10, 1980. Applicant: POST & SONS TRANSFER, INC., 2326 Milwaukee Road, Tacoma, WA 98421. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Lumber, wood products, roofing and insulation materials,* between points in CA, on the one hand, and points in OR and WA, on the other hand, for 270 days. There are 6 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 152610 (Sub-6–1TA), filed November 10, 1980. Applicant: RAVEN DISTRIBUTORS, INC., 6705 E. Marginal Way S., Seattle, WA 98108. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract carrier,* irregular routes. *Foodstuffs, frozen or dry, and restaurant and institutional food products, materials and supplies* between points in WA, OR, ID and CA. (Representative points, Seattle, Spokane, WA; Portland, Salem, OR; Boise, ID; Bay Area, Modesto, Fresno and Los Angeles, CA) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Miller-Cascade, Inc., 4500 4th Ave. S., Seattle, WA 98108.

MC 152548 (Sub-6–1TA), filed November 7, 1980. Applicant: S & J WATERBEDS, INC., 3863 Valley View, Suite No. 6, Las Vegas, NV 89103. Representative: Sam Licitra, 4650 Koval Lane, Apt. 13–A, Las Vegas, NV 89109. *Common carrier,* regular routes. *General commodities,* to and from points in Las Vegas, Nevada and Los Angeles, California, for 270 days, using I–5, I–10, I–15, I–405, I–605; Routes 57, 60 and 91. Supporting shipper: Bucatti Enterprises Corp., 3863 Valley View, Suite No. 5, Las Vegas, NV 89103.

MC 124692 (Sub-6–24TA), filed November 6, 1980. Applicant: SAMMONS TRUCKING, P.O. 4347, Missoula, MO 59806. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Lumber,* from points in Douglas county, NV to points in UT, WY, CO, AZ, NM, NE, AZ, OK, TX, MI, AR, WI, IL, IA, MO, IN, KY and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: P.S.F., Inc., Box 739, Fair Oaks, CA, 95628.

MC 95920 (Sub-6–7TA), filed November 7, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2d Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier:* irregular routes. *Fuel*

brick, from Provo and Spring City, UT, to Olympia, WA, for 270 days. Supporting shipper: I. & B. Coal Sales, 5131 59th Court S.W., Olympia, WA 98502.

MC 152609 (Sub-6–1TA), filed November 10, 1980. Applicant: SHIPPERS FREIGHT SERVICES, INC., 6129 S.E. 47th, Portland, OR 97206. Representative: Lynn Murray, 4910 S.W. Red Wing Way, Lake Oswego, OR 97034. *Contract carrier*, irregular routes: *general commodities (except household goods)*, between points in the U.S. for 270 days. Supporting shipper: General Products Manufacturing, Inc., Wilsonville, OR 97070.

MC 99463 (Sub-6–1TA), filed November 6, 1980. Applicant: SHIMA TRANSFER CO., 74 Mission Rock Street, San Francisco, CA 94107. Representative: Hiko Shimamoto (same as applicant). *General commodities* except used household goods, vehicles, livestock, commodities in bulk, commodities requiring specialized equipment, cement, logs, and commodities of unusal or extraordinary value between points in Marin, Sonoma, Napa, Yolo, and Solano counties, CA, for 270 days. Supporting shipper: Clipper Exxpress Company, 3871 San Pablo Ave., Emeryville, CA 94608.

MC 138875 (Sub-6–30TA), filed November 6, 1980. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Paper and paper products and materials, equipment and supplies used in the manufacture and distribution thereof* (except commodities in bulk), between points in CA, WA and OR, on the one hand, and, on the other, all points in the states of AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY, for 270 days. Supporting shipper(s): Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 150318 (Sub-6–2TA), filed November 12, 1980. Applicant: TAYLOR WAREHOUSE & TRUCKING CO., INC., 14615 Anson Ave., Santa Fe Springs, CA 90670. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier*, Irregular routes: *Plastic bags and plastic film*, from Greensburg, IN, to City of Commerce, CA, for the account of Crown Zellerbach, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Zellerbach, 5900 Sheila, City of Commerce, CA 90040.

MC 26396 (Sub-6–53TA), filed November 7, 1980. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O.B. 82028, Lincoln, NE 68501. *Wood molding and lumber*, from points in CA and OR to points in the U.S. (except AK and HI), for 270 days. Supporting shippers: Eagle Forest Products, P.O.B. 26264, Sacramento, CA 95826.

MC 123329 (Sub-6–7TA), filed November 10, 1980. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta T2P 2P9. Representative: D. S. Vincent, P.O. Box 3500, Calgary, Alberta T2P 2P9. *Potassium in bulk*, From ports of entry on the US/Canada International Boundary Line located at Portal, KD to St. Clair County, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morton Salt Division of Morton-Norwich Products Inc., 110 North Wacher Drive, Chicago, IL 60606.

MC 152077 (Sub-6–1TA), filed November 3, 1980. Applicant: JACK C. CARPENTER AND BETH C. HANSON, d.b.a. TUDOR WAREHOUSE CO., 920 Tudor Road, Yuba City, CA 95991. Representative: Marshall G. Berol, 601 California St., Suite 1900, San Francisco, CA 94108. *Contract carrier*, Irregular route, *fertilizer*, between points in AZ, CA, ID, NV, OR, UT, WA for 270 days. Supporting shipper: Pacific Agri Chem, Inc., 1850 N. Gateway Blvd., Suite 134, Fresno, CA 93717.

MC 152607 (Sub-6–1TA), filed November 10, 1980. Applicant: KARL ARTHUR WEBER, P.O.B. 21142, Phoenix, AZ 85036. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 12, Washington, D.C. 20036. *Contract carrier*, Irregular Routes: *Building materials and equipement and lumber*, between points in AZ, NV, and TX, on the one hand, and points in CA, CO, ID, NM, OR, OK, UT and WA on the other, for 270 day. An underlying ETA seeks 120 days authority. Supporting shippers: Dallas Wholesale Builders Supply, 627 E. 15th St., Dallas, TX 75203; United Wholesale Distributors, 5150 Tom Murray Ave., Glendale, AZ 85301; Bath Lumber Co., P.O.B. 1290, Ely, NV 89301.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36810 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier 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** 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 the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, 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 9, 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 January 26, 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. OP1–075

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-511F), filed November 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by Morse Electro Products, its affiliates, suppliers, or vendors.

MC 531 (Sub-453F), filed November 3, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *alcohol*, from Muscatine, IA, to points in the U.S.

MC 11220 (Sub-225F), filed November 5, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38191. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting (1) *paper, paper products, plastic, plastic articles, and wood pulp*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, TX, WV, AND WI, restricted to traffic originating at or destined to the facilities used by International Paper Company.

MC 63871 (Sub-8F), filed November 4, 1980. Applicant: ANDREWS & PIERCE, INC., 1431 Bedford St., North Abington, MA 02351.Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in MA, NH, and ME.

MC 65491 (Sub-14F), filed October 31, 1980. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd Street, Bronx, NY 10469. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *iron and steel articles*, between Milford, CT, and Sharon, PA.

MC 68860 (Sub-52F), filed November 6, 1980. Applicant: RUSSELL TRANSFER, INC. 5259 Aviation Drive, NW, Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting (1) *malt beverages*, in glass or metal containers (except those requiring special equipment), and (2) *empty glass or metal containers* (except those requiring special equipment), from the facilities of the Stroh Brewery Company at (a) Detroit, MI and (b) Perrysburg, OH, to points in NC, SC, VA, GA, WV, NJ, PA, MD, DC, and OH.

MC 84450 (Sub-5F), filed November 3, 1980. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Stephen R. Tranovich (same address as applicant). Transporting (1) *metal articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between Philadelphia, PA, New York, NY, and points in Fairfield County, CT, on the one hand, and, on the other, points in IL, IN, OH, VA, and WV.

MC 85970 (Sub-41F) filed November 6, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Larry Kilzer (same address as applicant). Transporting (1) *cleaning, scouring, washing, buffing and polishing compounds*, and (2) *food products*, from St. Louis, MO, to points in AR, GA, LA, MS, and TN.

MC 91811 (Sub-15F), filed October 31, 1980. Applicant: MILTON K. MORRIS, INC., 3768 Sipler Lane, Huntingdon Valley, PA 19006. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *meats, meat products, and meat by-products*, between points in the U.S., under continuing contract(s) with Acme Markets, Inc., of Philadelphia, PA.

MC 111231 (Sub-323F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *building and roofing materials and supplies* (except commodities in bulk), from Stroud, OK, to points in the U.S. (except AK and HI).

MC 111231 (Sub-324F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *lumber, lumber products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Hamilton County, IL, on the one hand, and, on the other, points in KS, MO, OK and TN.

MC 118561 (Sub-21F), filed November 4, 1980. Appliant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *such commodities* as are dealt in or used by grocery and food houses, between points in AL, TN, NC, SC, GA, WV, KY, VA, FL, LA, AR, MS, OH, IN, and MO.

MC 118811 (Sub-17F), filed November 3, 1980. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Winchester, KY 40391. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting (1) *mining and road building equipment*, and (2) *parts and accessories* for the commodities in (1) between points in Bourbon County, KY, on the one hand, and, on the other, points in AL, FL, GA, OH, TN, and TX.

MC 124211 (Sub-381F), filed November 3, 1980. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities used by the Purex Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 128521 (Sub-11F), filed November 3, 1980. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., P.O. Box 100417, Nashville, TN 37210. Representative: Robert S. Durrett (same address as applicant). Transporting (1) *alcoholic liquors*, and (2) *materials, equipment, and supplies* used in the manufacture and distrubution of alcoholic liquors (except in bulk, in tank vehicles), between Louisville and Paducah, KY, and Lynchburg, TN, on the one hand, and, on the other, New Orleans, Baton Rouge, Shreveport, and Lake Charles, LA, restricted to traffic originating at or destined to the facilities of Pan-American Import Co., Inc.

MC 129290 (Sub-5F), filed November 6, 1980. Applicant: CHIPPEWA TRANSPORT CO., a corporation, 1500 Pine St., Essexville, MI 48732. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. In foreign commerce only, transporting *cement*, between the facilities of Aetna Cement Corporation, at Essexville, MI, on the one hand, and, on the other, points along the international boundary line between the U.S. and Canada.

MC 135861 (Sub-86), filed October 31, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1) *power transmission machinery and parts and attachments*

for power transmission machinery, and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with T. B. Woods Sons Company, of Chambersburg, PA.

MC 141740 (Sub-13F), filed November 6, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Square D Company of Florence, KY.

MC 142181 (Sub-21F), filed November 3, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by manufacturers of metal products, between points in the U.S., under continuing contract(s) with Cincinnati Sheet Metal and Roofing Company, of Nashville, TN.

MC 143311 (Sub-11F), filed October 28, 1980. Applicant: FAMCO TRANSPORT, INC., 6640 Ellis Ave. South, Seattle, WA 98108. Representative: William J. Albright (same address as applicant). Transporting *alcoholic beverages and fruit juices* (except commodities in bulk), between points in WA and CA.

MC 143411 (Sub-2F), filed October 31, 1980. Applicant: VALLEY CONTRACT CARRIERS, INC., P.O. Box 3479, McAllen, TX 78501. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *fruit and vegetable juices and concentrates* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Texsun Corporation, of Weslaco, TX, and Fresh-Pak Foods, Inc., of McAllen, TX.

MC 143760 (Sub-6F), filed November 6, 1980. Applicant: POINTS WEST TRUCKING, INC., 20727 Santa Clara St., Canyon Country, CA 91351. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *textile mill products* and *rubber or miscellaneous plastic products*, as described in Items 22 and 30 of the Standard Transportation Commodity Code Tariff, respectively, between points in the U.S., under continuing contract(s) with Hygiene Industries California, Inc.

MC 146320 (Sub-3F), filed November 7, 1980. Applicant: CHARLES A. STOECKLER, INC., 3 Spring St., Wilkes Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1) *paper stationery supplies*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between Berwick, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146820 (Sub-8F), filed November 6, 1980. Applicant: B & G TRUCKING, INC., 579 High St., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *stove boards and stove board products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Hearth Products, Inc., of Columbus, OH.

MC 147311 (Sub-3F), filed October 31, 1980. Applicant: T & S TRANSPORTATION, INC., 7420 Ranco Road, P.O. Box 9729, Richmond, VA 23228. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by food business houses (except commodities in bulk), between Richmond, VA, on the one hand, and, on the other, points in the U.S.

MC 149510 (Sub-1F), filed November 3, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Wheeling Stamping Company of Wheeling, WV.

MC 150781 (Sub-1F), filed October 31, 1980. Applicant: JAMES L. GRIGGS, 229 Dorris Drive, Grand Prairie, TX 75051. Representative: William M. Spruce, 350 N. St. Paul St., P.O. Box 2819, Dallas, TX 75221. Transporting *automotive vehicles*, between points in the U.S., under continuing contract(s) with Arco Oil & Gas Company, of Dallas, TX.

MC 152260 (Sub-1F), filed October 31, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting (1) *printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in the U.S. under continuing contract(s) with World Color Press, Inc., of Effingham, IL.

MC 152261 (Sub-1F), filed November 5, 1980. Applicant: M. W. ETTINGER, INC., 2711 Fairview Ave., North, Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. 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 points in MN, on the one hand, and, on the other points in the U.S.

MC 152570F, filed November 3, 1980. Applicant: EMPAK TRANSPORTATION COMPANY, 1400 South Harrison, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *chemicals and allied products*, and *petroleum or coal products* as described in Items 28 and 29 of the Standard Transportation Commodity Code Tariff, respectively, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Witco Chemical Corporation of New York, NY, and its subsidiaries.

Volume No. OP1–077

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 52460 (Sub-291F), filed November 6, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *such commodities* as are dealt in by food business houses, between points in AL, AR, CO, FL, GA, KY, IL, IA, KS, LA, MS, MO, NC, NE, NM, OK, TN, TX, and SC.

MC 61440 (Sub-20F), filed October 31, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general comodities* (except classes A and B explosives, and household goods as defined by the Commission), between the facilities of Columbian Chemical Company at North Bend, LA, on the one hand, and, on the other, points in the U.S.

MC 83430 (Sub-15F), (republication), filed September 26, 1980., previously noticed in the FR issue of October 14, 1980. Applicant: ONEIDA MOTOR FRIEGHT, INC., Commercial Ave.,

Carlstadt, NJ 07072. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. 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 points in Erie, Warren, McKean, Potter, Tioga, Bradford, Susquehanna and Wayne Counties, PA, on the one hand, and, on the other, Hartford, CT, points in NJ, NY, those in that part of CT on and south of a line beginning at the NY–CT State line, and extending along U.S. Hwy 6 to Sandy Hook, CT, then along CT Hwy 34 to New Haven, CT, and points in Bucks, Philadelphia, Delaware, and North Hampton Counties, PA.

Note—The purpose of this republication is to add NJ, and NY to the territorial description.

MC 106920 (Sub-110F) (republication), filed September 25, 1980, previously noticed in the FR issue October 14, 1980.Applicant: RIGGS FOOD EXPRESS, INC., West Monore St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washinton, DC 20001. Transporting *salad dressings*, from Columbus, OH, to points in CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NJ, NY, PA, RI, VA, WI, and DC.

Note.—The purpose of this republication is to indicate the correct designation state as NY in lieu of MY as previously publishes.

MC 109821 (Sub-70F), filed November 4, 1980. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* except classes A and B explosives, and household goods as defined by the commissions), between points in CT, DE, IN, NY, MD, MA, NJ, NY, OH, PA, RI, VA, WV, and DC.

MC 115331 (Sub-549F), filed October 27, 1980. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St Louis, MO 63122. Transporting *sulphuric acid*, in bulk, from points in LaSalle County, IL, to points in IL, IN, IA, MO, TN, KY, OH, MI and WI.

MC 117730 (Sub-82F), filed November 7, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route #47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 North LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, a Division of Swift and Company, of Chicago, IL.

MC 145441 (Sub-122F), filed November 3, 1980. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *chemicals*, and *materials, equipment and supplies* used in the manufacture of chemicals (except in bulk), between the facilities used by Velsicol Chemical Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 149570 (Sub-1F), filed November 6, 1980. Applicant: KMD, INC., 18628 72nd Ave. South, Kent, VA 98031. Representative: Rebecca L. Bogard, 2000 IBM Bldg., Seattle, WA 98101. Transporting *petroleum or coal products*, in containers, *rubber or miscellaneous plastic products*, in containers, and *containers, carriers or devices, shipping returned empty* as described in Items (29), (30), and (42) respectively, of the Standard Transportation Commodity Code Tariff, between points in WA, OR, CA, ID, MT, UT, NM, CO, AZ, NV, WY, and TX.

MC 152390 (Sub-1F), filed November 5, 1980. Applicant: MURRAY TRUCKING, INC., P.O. Box 2138, Calcutta, Branch, East Liverpool, OH 43920. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *iron and steel articles*, and (2) *materials, equipment* and *supplies* used in the manufacture of iron and steel articles, between points in Beaver County, PA, on the one hand, and, on the other, those points in and east of MN, IA, MO, AR, and LA.

MC 152430 (Sub-1F), filed November 3, 1980. Applicant: A. J. THOMAS & SON, INC., 840 So. Front St., Coos Bay, OR 97420. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *paper and paper products*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of paper and paper products, between points in Coos County, OR, on the one hand, and, on the other, points in CA.

Volume No. OP1–079

Decided: November 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 3151 (Sub-23F), filed November 5, 1980. Applicant: BENDER & LOUDON MOTOR FREIGHT, INC., 3024 Brecksville Road, Richfield, OH 44286. Representative: Rex Eames, 900 Guardian Bldg., Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (A) *over regular routes*, (1) between Bay City, MI, and Cincinnati, OH, (a) over Interstate Hwy 75, and (b) from Bay City over Interstate Hwy 75 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction Interstate Hwy 75, then over Intestate Hwy 75 to Cincinnati, and return over the same route; (2) between Jackson, MI, and Cincinnati, OH, over U.S. Hwy 127, (3) between Clare, MI, and Toledo, OH, from Clare over U.S. Hwy 27 to Lansing, MI, then over U.S. Hwy 127 to junction U.S. Hwy 223, then over U.S. Hwy 223 to Toledo, and return over the same route, (4) between Clare and Bay Cities, MI, over U.S. Hwy 10, (5) between Port Huron and Grand Rapids, MI, over U.S. Hwy 21, (6) between Port Huron and Bay City, MI, from Port Huron over MI Hwy 21 to Emmett, MI, then over MI Hwy 19 to Sandusky, MI, then over MI Hwy 46 to junction MI Hwy 53, then over MI Hwy 53 to Bad Axe, MI, then over MI Hwy 142 to junction MI Hwy 25, then over MI Hwy 25 to Bay City, and return over the same route, (7) between Port Huron, MI, and Hammond, IN, over Interstate Hwy 94, (8) between Hammond, IN, and Conneaut, OH, from Hammond over Interstate Hwy 90 to junction OH Hwy 7, then over OH Hwy 7 to Conneaut, and return over the same route, (9) between Hammond, IN and Youngstown, OH, from Hammond over Interstate Hwy 65 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Canton, OH, then over U.S. Hwy 62 to Youngstown, and return over the same route, (10) between Flint, MI, and Fort Wayne, IN, over Interstate Hwy 69, (11) Grand Rapids, MI, and Fort Wayne, IN, from Grand Rapids over U.S. Hwy 131 to junction IN Hwy 13, then over IN Hwy 13 to junction U.S. Hwy 33, then over U.S. Hwy 33 to Fort Wayne, and return over the same route, (12) between Grand Rapids and Sandusky, MI, from Grand Rapids over U.S. Hwy 131 to junction MI Hwy 46, then over MI Hwy 46 to Sandusky, and return over the same route, (13) between Grand Rapids and Holland, MI, over Intrstate Hwy 196, (14) between Jackson, MI, and junction U.S. Hwys 30 and 31, from Jackson over MI Hwy 60 to Niles, MI, then over U.S. Hwy 31 to junction U.S. Hwy 30, and return over the same route, (15) between Niles and Detroit, MI, over U.S. Hwy 12, (16) between Niles, MI, and junction MI Hwy 51 and Interstate Hwy 94, over MI Hwy 51, (17) between

Detroit and Muskegon, MI, over Interstate Hwy 96, (18) between South Bend, IN, and Muskegon, MI, from South Bend over U.S. Hwy 31 to St. Joseph, MI, then over Interstate Hwy 196 to Holland, MI, then over U.S. Hwy 31 to Muskegon, and return over the same route, (19) between Muskegon and Midland, MI, from Muskegon over MI Hwy 120 to Hesperia, MI, then over MI Hwy 20 to Midland, and return over the same route, (20) between Cincinnati and Chillicothe, OH, (a) over OH Hwy 28, and (b) from Cincinnati over OH Hwy 125 to Portsmouth, OH, then over U.S. Hwy 23 to Chillicothe, and return over the same route, (21) between Athens and Columbus, OH, from Athens over OH Hwy 346 to juncton OH Hwy 124, then over OH Hwy 124 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Columbus, and return over the same route, (22) between Cleveland and Cincinnati, OH, over Interstate Hwy 71, (23) between Cleveland and Marietta, OH, from Cleveland over Interstate Hwy 77 to junction OH Hwy 7, then over OH Hwy 7 to Marietta, and return over the same route, (24) between Cleveland and Youngstown, OH, from Cleveland over U.S. Hwy 422 to Warren, OH, then over OH Hwy 46 to Youngstown, and return over the same route, (25) between Marietta and Toledo, OH, from Marietta over OH Hwy 505 to Athens, OH, then over U.S. Hwy 33 to Columbus, OH, then over U.S. Hwy 23 to Toledo, and return over the same route, (26) between Columbus and Toledo, OH, from Columbus over U.S. Hwy 23 to junction OH Hwy 15, then over OH Hwy 15 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Toledo, and return over the same route, (27) between Toledo and Youngstown, OH, (a) from Toledo over OH Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Youngstown, and return over the same route, and (b) from Toledo over Interstate Hwy 280 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Norwalk, OH, then over OH Hwy 18 to Akron, OH, then over Interstate Hwy 76 to Youngstown, and return over the same route, (28) between Ashtabula and Cambridge, OH, from Ashtabula over OH Hwy 11 to East Liverpool, OH, then over OH Hwy 7 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Cambridge, and return over the same route, and (29) between Dayton and Cambridge, OH, over Interstate Hwy 70, serving in connection with routes (1) to (29) above, all points in OH, those in MI in and south of Oceana, Newaygo, Isabella, Midland, Bay, Tuscola, and Huron Counties, and those points in IN on and north of U.S. Hwy 30 as intermediate or off-route points, and (B) *over irregular routes*, between points in OH, those in MI in and south of Oceana, Newaygo, Isabella, Midland, Bay, Tuscola, and Huron Counties, and those points in IN on and north of U.S. Hwy 30.

Note.—Applicant intends to tack the sought rights in Part (A) above to its existing authority.

MC 17000 (Sub-25F), filed November 7, 1980. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *General commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Davidson, Henderson, Lewis, Perry, Shelby, Williamson, Decatur, and Hickman Counties, TN, Crittenden County, AR, and DeSoto County, MS, on the one hand, and, on the other, points in the U.S.

MC 29910 (Sub-293F), (republication) filed October 3, 1980, previously noticed in the **Federal Register** issue of October 21, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Santa Cruz, CA, Charleston SC, Cape Canaveral, FL, Simsbury, CT, and Crane, IN. Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.—This republication includes the movement of classes A and B explosives.

MC 47171 (Sub-188F), filed November 3, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *chemicals* (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Zep Manufacturing Company, its divisions, and subsidiaries.

MC 52460 (Sub-292F), filed November 3, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of National Beef Packing Co., Inc., at or near Liberal, KS, to points in AL, AR, GA, IA, LA, MS, MO, NC, OK, SC, and TX.

MC 66860 (Sub-53F), filed November 7, 1980. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, NW., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting *salt and salt products*, in packages, from the facilities of Morton Salt Division of Morton-Norwich Products, Inc., at Rittman and Fairport, OH, to points in VA, NC, SC, and WV.

MC 75840 (Sub-140F), filed October 27, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NC, AR, KY, and LA, on the one hand, and, on the other, points in GA, MS, TN, AL, SC, NC, VA, AR, KY, WV, MD, LA, DE, OH, NJ, PA, NY, and DC.

MC 75840 (Sub-141F), filed November 4, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Raymond Hamilton, 3400 Third Ave., South, Birmingham, AL 35222. Transporting *paper*, between points in Jefferson County, AL, on the one hand, and, on the other, points in WI.

MC 88300 (Sub-36F), filed October 28, 1980. Applicant: DIXIE AUTO TRANSPORT COMPANY, a corporation, 1600 Talleyrand Ave., Jacksonville, FL 32206. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. Transporting *motor vehicles*, between points in FL and TX.

MC 114301 (Sub-110F), filed October 31, 1980. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals and plastic products, between those points in the U.S., in and east of MN, IA, MO, AR, and TX, restricted to traffic originating at or destined to the facilities used by the B. F. Goodrich Company, Chemical Group.

MC 115841 (Sub-775F), filed November 6, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow (same address as applicant). Transporting *foodstuffs*, and *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between points in GA, on the one hand, and, on the other, those points in and east of WI, IL, MO, AR and TX (except WI).

MC 115931 (Sub-118F), filed November 3, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting (1) *buildings, building panels, building parts, bins and tanks*, and (2) *materials, equipment and supplies* used in the manufacture, erection and installation of the commodities in (1) above, between points in Tulare County, CA, Knox County, IL, Jackson County, MO, and Hays County, TX, on the one hand, and, on the other, those points in the U.S., in and west of MI, IN, IL, MO, AR, and TX (except AK and HI).

MC 119741 (Sub-285F), filed November 13, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *wooden flush garage door sections*, from Fort Worth, TX, to points in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, OH, OK, SD, WI, and WY.

MC 123670 (Sub-16F), filed November 11, 1980. Applicant: CROWELL TRUCKING, INC., 4671 N. Van Dyke, Almont, MI 48003. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Vlasic Foods, Inc., of West Bloomfield, MI.

MC 128021 (Sub-47F), filed November 3, 1980. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *pet foods, and materials, equipment, and supplies* used in the manufacture and distribution of pet foods, between points in the U.S., under continuing contract(s) with Vulcan Pet, Inc., of Alabaster, AL.

MC 128290 (Sub-14F), filed November 6, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. Transporting (1) *fluorescent lamp ballasts*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between points in Passaic County, NJ, Fairfield County, CT, Simpson and Copiah Counties, MS, and Mississippi County, AR, on the one hand, and, on the other, points in the U.S.

MC 135410 (Sub-106F), filed November 6, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, North 6th St. Rd., Monmouth, IL 61402. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting (1) *such commodities* as are dealt in or used by manufacturers of phosphates and cleaning compounds, and (2) *electro plating and metal finishing materials, equipment and supplies* (except commodities in bulk), between Morenci and Warren, MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, CO, OK, and TX, restricted to traffic originating at or destined to the facilities of Oxy Metal Industries Corporation.

MC 142181 (Sub-22F), filed November 6, 1980. Applicant: LILBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetic and toiletry products, between points in the U.S., under continuing contract(s) with Avon Products, Inc., of New york, NY.

MC 142310 (Sub-30F), filed November 12, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by drug stores and food business houses, from Chicago, IL, to points in MN, ND, SD, WI, and the Upper Peninsula of MI.

MC 142821 (Sub-2F), filed November 6, 1980. Applicant: ROY M. BROWN, R. R. #2, Galatia, IL 62935. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *coal*, between points in Coffee County, TN, on the one hand, and, on the other, points in Williamson County, IL.

MC 143600 (Sub-1F), filed November 7, 1980. Applicant: H. K. DELIVERY SYSTEMS, INC., 836 West North Avenue, Pittsburgh, PA 15233. Representative: Frederick L. Kiger, 7823 Mt. Carmel Road, Verona, PA 15147. Transporting (1) *household cleaning products* and (2) *materials and supplies* used in the distribution of the commodities in (1) above, between Pittsburg, PA, on the one hand, and, on the other, those points in OH on and east of a line beginning at Lake Erie and extending along OH Hwy. 306 to junction Interstate Hwy. 80, then along Interstate Hwy. 80 to junction OH Hwy. 11, then along OH Hwy. 11 to the OH–WV State line.

MC 147461 (Sub-3F), filed November 4, 1980. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Dr., Baltimore, MD 21203. Representative: Eugene T. Liip, Suite 1100, 1660 L Street, N.W., Washington, DC 20036. Transporting *currency, coin, securities, non-cash coupons, and other valuables*, between Pittsburgh, PA, on the one hand, and, on the other, points in Belmont, Monroe, and Jefferson Counties, OH, Brooke, Hancock, Marshall, Ohio, Tyler, and Wetzel Counties, WV, and Washington County, PA.

MC 150211 (Sub-4F), filed October 26, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant). Transporting *sheet steel laminations*, between Chicago, IL, on the one hand, and, on the other, points in TN, AR, MS, and AL.

MC 150741 (Sub-2F), filed November 3, 1980. Applicant: HUEY TRANSPORTATION CO., INC., 2802 Lomb Ave., Birmingham, AL 35208. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *metal products and machinery*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with MCM Industries, Inc., of Birmingham, AL.

MC 150901 (Sub-1F), filed November 12, 1980. Applicant: MARKET EXPRESS, INC., 996 South Garfield St., Denver, CO 80209. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Mathieson Sales, Inc., of Kingman, AZ.

MC 151480 (Sub-1F), filed November 7, 1980. Applicant: SUNBELT EXPRESS, INC., P.O. Box 13008, Florence, SC 29504. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *lumber, lumber mill products, forest products, and building materials*, between points in GA, NC, SC, and VA, on the one hand, and, on

the other, those points in the U.S. in and east of OH, KY, TN, and MS.

MC 152470F, filed October 28, 1980. Applicant: DAVID J. PRUDHAM, d.b.a. MIDWEST DISTRIBUTORS TRANSPORT, SS-1-3-87, Lethbridge, Alberta, Canada T1J 4B3. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. In foreign commerce only, transporting *lime, fertilizers, and soil conditioners,* between ports of entry on the international boundary line between the U.S. and Canada in MT, ID, and WA, on the one hand, and, on the other, points in WA, OR, and ID.

MC 152471F, filed October 28, 1980. Applicant: PEBBLE CREEK LAND COMPANY, d.b.a. SKIWEST TOURS, INC., P.O. Box 1056, Pocatello, ID 83201. Representative: Billy B. Isley, Jr. (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Pocatello, ID, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* between points in ID, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 152520F, filed October 17, 1980. Applicant: AUSTIN MOVING & STORAGE COMPANY, INC., 615 Poinsett Street, Greenville, SC 29604. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1112, Washington, DC 20036. Transporting *household goods,* as defined by the Commission, (1) between points in GA, SC, NC, and VA, and (2) between points in GA, SC, NC, and VA, on the one hand, and, on the other, points in CT, NY, NJ, PA, DE, MD, FL, AL, MS, TN, and DC.

MC 152531F, filed October 18, 1980. Applicant: J C & G CO., INC., P.O. Box 579, Pearce, AZ 85625. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *silica sand* between points in the U.S., under continuing contract(s) with Duimich & Associates, of Mesa, AZ.

MC 152571F, filed November 5, 1980. Applicant: ECHO TRAVEL, INC., 373 South Schmale Road, Carol Stream, IL 60087. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. As a *Broker,* at Carol Stream, IL, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, in round-trip sightseeing or pleasure tours, between points in the U.S.

MC 152631F, filed November 12, 1980. Applicant: THE LEADER COMPANY, a corporation, P.O. Box 2142, Shelby, NC 28150. Representative: W. Franklin Howell, Jr. (same address as applicant). Transporting *construction machinery, materials and equipment,* between points in the U.S., under continuing contract(s) with Kalman Floor Company, of Charlotte, NC.

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Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 109533 (Sub-132F), filed October 21, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, A Corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: John C. Burton, Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Audrain, Boone, Callaway, Cole, Cooper, Howard, Miller, Morgan, and Randolph Counties, MO, as off-route points in connetion with carrier's otherwise authorized regular-route operations. NOTE: Applicant intends to tack the authority herein with authority presently held.

MC 111812 (Sub-743F), filed November 4, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting *Frozed foods* (except commodities in bulk), from (a) the facilities of Pet, Inc., Frozen Foods Division, at Lithonia, GA, and (b) the facilities utilized by Pet, Inc., Frozen Foods Division, at Atlanta, GA, to points in FL, NC, SC, and TN.

MC 118202 (Sub-162F), filed November 10, 1980. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge St., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Webb County, TX, on the one hand, and, on the other, points in the U.S.

MC 123993 (Sub-85F), filed November 3, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points, in LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128343 (Sub-62F), filed October 30, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW, Suite 501, Washington, DC 20036. Transporting *general commodities* except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with George Mann & Company, Inc., of Providence, RI.

MC 128343 (Sub-63F), filed October 30, 1980. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW, Suite 501, Washington, DC 20036. Transporting *general commodities* except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Bostitch, a division of Textron, Inc., of East Greenwich, RI.

MC 134243 (Sub-5), filed November 4, 1980. Applicant: MOORE BROS. TRANSPORTATION CO., INC., P.O. Box 5236, Greensboro, NC 27403. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations beginning and ending at points in Rowan, Davidson, Guilford and Alamance Counties, NC, and extending to points in the U.S.

MC 139663 (Sub-10F), filed October 24, 1980. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting *scrap metal* between the facilities of General Motors Corporation, in MI, and points in IN.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2)) or submit an affidavit indicating why such approval is unnecessary.

MC 14033 (Sub-92F), filed October 31, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) (a) *foodstuffs* and (b) *meats, meat products, and meat byproducts and articles* distributed by meat-packing houses (except foodstuffs) as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 except in (a) and (b) commodities in bulk, and (2) *materials,*

equipment and supplies used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, a Division of Swift & Company, of Chicago, IL.

MC 144622 (Sub-197F), filed October 22, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *drugs, rubber articles, and plastic articles,* between Malvern, PA, on the one hand, and, on the other, Atlanta, GA, Buena Park, CA, Kent, WA, and Dallas, TX.

MC 146643 (Sub-62F), filed November 5, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60603. Transporting *petroleum and coal products,* between points in the U.S., under continuing contract(s) with Valvoline Oil Company, Division of Ashland Oil, Inc., of Ashland, KY.

MC 146643 (Sub-63F), filed November 5, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle Street, Chicago, IL 60603. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with The Hubinger Company, of Keokuk, IA.

MC 146892 (Sub-14F), filed November 4, 1980. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in OH, on the one hand, and, on the other, points in the U.S. Condition: Issuance of this certificate is subject to prior or coincidential cancellation at applicant's written request of all certificates, issued and pending.

MC 148512 (Sub-4F), filed November 3, 1980. Applicant: WESTERN TANK LINE, INC., 2222 North 11 Street, Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *acids and chemicals,* in bulk, between points in Woodbury County, IA, on the one hand, and, on the other, points in ND, SD, MN, NE and IA.

MC 151572 (Sub-1F), filed November 7, 1980. Applicant: MICHAEL W. KAISER, d.b.a. MIKE KAISER, Box 65, Alexander, IL 62601. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *iron and steel articles,* between points in the U.S., under continuing contract(s) with CBM Steel Corporation of St. Louis, MO.

Volume No. OP3–078

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 107295 (Sub-1001F), filed October 20, 1980. Applicant: PRE–FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL, 61842. Representative: Chandler L. van Orman, 1729 H St., Washington, DC 20006. Applicant holds Certificates in MC 107295 and various subs thereunder to transport the commodities stated below. By this application Pre-Fab seeks to remove from its certificates all restrictions which limit the quantity or scope of service it is authorized to perform. Pursuant to this application, Pre-Fab seeks authority to transport: 1. *Prefabricated metal grain storage buildings,* set up. knocked down, or in sections, from Sioux Falls, SD, to points in MI, IN, OH, IL, MD, NY, NC, and VA. 2. *Conduit* and *pipe, attachments, parts and fittings* therefor from Rootstown Township, Portage County, OH, to points in AL, KS, LA, MN, MS, and WV. 3. *Hardboard,* and *parts, materials, and accessories* related thereto, from Superior, WI, to points in AR, IL, IN, IA, KY, MI, MO, OH, and TN. 4. *Pipe and pipe fittings, couplings, connections,* and *accessories,* from Springfield, IL, to points in the United States except AZ, CA, CO, ID, IL, MT, NV, NM, ND, OR, UT, WA, WY, AK, and HI. 5. *Pipe, conduit,* and *tubing,* from points in Livingston County, IL, to points in AR, IN, NY, OH, TN, and the Lower Peninsula of MI. 6. *Iron and steel articles,* from Putnam County, IL, to points in AL, AR, GA, FL, KY, MS, MO, LA, OK, TN and TX; and *materials, equipment and supplies* used in the manufacture and processing of iron and steel articles, from points in AL, AR, GA, FL, KY, MS, MO, LA, OK, TN, and TX, to Putnam County, IL. 7. *Plywood,* from Chesapeake (Norfolk), VA, to points in AL, MS and TN. 8. *Wallboard, wallboard molding and aluminum molding, wallboard samples, adhesive cement,* and *plywood,* from Pittsburg, KS, to points in AL, AR, GA, IL, IN, KY, LA, MI, MS, OH, TN, TX and WI. 9. *Pipe,* from Doraville, GA, to points in KY and TN, east of U.S. Highways 31 and 31W. 10. *Stadiums, grandstands, portable bleachers,* and *materials, supplies, and fixtures,* used in the construction thereof, from Waco, TX, to points in the U.S. except points in AL, HI, and TX. 11. *Fencing, netting, iron and steel wire,* and when shipped therewith, *fence stretchers, gates and fence posts,* from Houston, TX, to points in IL, IN, IA, KY, MI, MN, MO, NE, ND, SD, TN, VA, WV and WI. 12. *Building boards,* and *composition boards,* from Marrero, LA., to points in AR, KS, MN, NE, ND, OK, PA, SD, TN, and TX. 13. *Steel windows, clips* and *anchors,* from Niles and Youngstown, OH to points in AL, CT, DE, FL, LA, ME, MD, MA,NM, MS, NE, NH, NJ, NY, OK, PA, RI, TX, VT, VA, WV and the District of Columbia. (a) *Steel building sections and panels,* and *steel building parts and accessories,* from Niles and Youngstown, OH, to points in AL, CT, FL, LA, ME, MA, MN, MS, NE, NH, OK, RI, TX, and VT. (b) *Reconsigned shipments* of steel windows, clips and anchors, between points in AL, CT, DE, FL, LA, ME, MD, MA, MN,, MS, NE, NH, NJ, NY, OK, PA, RI, TX, VT, VA, WV, and the District of Columbia. (c) *Reconsigned shipments* of steel building sections and panels, and steel building parts and accessories, between points in AL, CT, FL, LA, ME, MA, MN, MS, NE, NH, OK, RI, TX, and VT. 14. *Laminated wood products,* from Marion, WI to points in AR, IL, IN, IA, KY, MI, MO, ME, MA, MD, NH, NJ, NY, OH, PA, TN, RI, VT, VA, WV, and CT. 15. *Ceiling tile, sounding board, insulating materials and siding materials,* from International Falls, MN, to points in IL, IN, KY, MI, MO, NJ, NY, NC, OH, and PA. 16. *Prefabricated buildings, complete, knocked down, or in sections,* from Dallas, TX, to points in AZ, CO, IA, KS, MO, NM, and OK. 17. *Particle board, hardboard, plywood* and moldings, and *accessories* for particle board, hardboard, plywood and moldings, when shipped therewith, from Franklin Park and Chicago, IL, to points in AL, AR, CO, CT, DE, FL, IA, KS, KY, LA, ME, MD, MA, MS, NH, MO, NJ, NY, OK, PA, RI, TN, VT, WV, the District of Columbia, points in that part of OH east of Interstate Highway 71, and those in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301 (except Richmond, VA, Commercial Zone as defined by the Commission) with no transportation for compensation on return except as otherwise authorized. 18. *Composition boards, and parts, materials,* and *accessories* incidental to the installation of composition boards, from Meridian, MS, to points in KS, LA, OK, and TX. 19. *Concrete products, and materials necessary for the erection and construction thereof,* from Dallas, TX, to

points in AR, KS, LA, MS, and OK. 20. *Prefabricated components of electrical substations and towers,* except electrical equipment, from Newark, OH, to points in the U.S. (except AK, HI, GA, NC, SC, and those in that part of VA on and south of U.S. Highway 460 and on and east of U.S. Highway 301). 21. *Building mortar and flooring and curing compounds, and machinery and hand tools* used in the installation and application of the above-named commodities when shipped therewith, from Cleveland, OH, to points in AL, CT, FL, GA, IL, IN, KY, MD, MN, MS, MO, NE, NJ, NY, PA, RI, and TN. 22. *Prefabricated building parts* (except stone, marble, granite, or slate), and *accessories* used in the installation thereof, when shipped with such parts, from Connersville, IN, to points in the U.S. in and east of MT, WY, CO, and NM, and from Ambridge, PA, to points in the U.S. in and east of MT, WY, CO, and NM (except points in VA, NC, SC, FL, GA, and those in the Chicago, IL, commercial zone as defined by the Commission). 23. *Fencing posts, cloth, netting fabric, gates, tires, wire and wire products, and related wire specialities and accessories, fittings and parts* incidental to the completion, erection, and installation thereof, from Crawfordsville, IN, to points in AR, IA, MS, TN, OH (except Cincinnati and Columbus), KY (except Louisville and Henderson and those KY points located in the Cincinnati, OH Commercial Zone as defined by the Commission), and IL (except points in the Chicago Commercial Zone as defined by the Commission and points in that part of IL on and south of U.S. Highway 150 from the IN–IL State Line to Peoria, IL, thence on and east of IL Highway 29 to Springfield, IL, thence on and east of U.S. Highway 66 to East St. Louis, IL, thence on the north of U.S. Highway 40 to the IL–IN State Line, thence north along the State Line to the point of beginning). 24. *Steel doors, steel door frames, steel window frames and elevator cars,* and *accessories* incidential to the installation thereof, from the Borough of Brooklyn, NY, to points in AL, AR, CO, DE, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, ND, OH, OK, PA, SD, TN, TX, VA, WV, WI, and WY. 25. (a) *Pipe, cable, and conduit and fittings therefor,* from Glen Dale, WV, to points and places in OH, MI, IN, KY, TN, LA, AR, MO, IL, WI, MN, IA, ND, SD, NE, KS, OK, NM, CO, WY, and MT. (b) *Pipe, tubing and fittings and accessories therefor,* other than iron or steel pipe and tubing, from Footville, WI, to points and places in the U.S. except AK, HI, WA, OR, CA, AZ, NV, UT, and IA. 26. *Corrosion proof materials, products and supplies,* from Berea, OH, to Houston and Odessa, TX, New Orleans, LA, Tulsa, OK, and Denver, CO. 27. *Pipe, conduit, and metal, shapes and forms,* from Harvey, IL, to points in AR, CO, IN, KY, MN, TN, WI, LA, MS, NC, OK, SC, and TX, with no transportation for compensation on return except as otherwise authorized. 28. *Paint and varnish,* from Paterson, NJ, to points in OH, KY, TN, IN, MI, WI, IA, MO, and IL (except Cook County). 29. *Fencing, fencing fixtures and accessories, tubing, fence pipe, wire, and wire mesh,* from Rock Hill, SC, to points in AR, FL, KY, IA, IL, and MO. 30. *Ceiling systems, and wall systems,* from Erie County, NY, to points in the U.S. except MD, DE, PA, NJ, NY, RI, SC, NC, NE, VA, and CO, AK and HI. 31. *Plywood and plywood panels,* from Danville, VA, to points in MN, ND, SD, NE, KS, OK, TX, LA, ME, NH, and VT; from Norfolk, VA to points in MN, ND, SD, NE, KS, OK, TX, LA, CT, ME, MA, NH, RI and VT.

32. *Steel columns, steel joists, steel beams, steel roofing decks, steel shapes, and steel trusses,* from Canton and Fairhope, OH, to points in AL, AZ, CA, CO, CT, DE, FL, IA, KS, LA, ME, MD, MA, MN, MS, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, PA, RI, SD, TX, UT, VT, WA, WV, WY, and the District of Columbia. 33. *Tubular steel products and window wells,* from Akron, OH, to points in IA and MN. 34. *Concrete planks or slabs,* from Erie County, NY, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA; KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia. 35. *Ventilators and ventilator systems, and parts and equipment therefor,* (a) from Philadelphia, PA, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, OH, OK, TN, TX, ND, SD, WV, and WI. (b) From Keyser, WV, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, OK, TN, TX, ND, SD, and WI. (c) From Junction City, KY, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, MS, NE, OH, OK, TN, TX, ND, SD, WV, and WI. (d) From Keyser, WV, and Junction City, KY to Philadelphia, PA. 36. *Pontoons and panels and insulation,* from Columbus, OH, to points in the U.S. (except HI, OH and PA). 37. *Air ducts and fittings therefor,* from Rockford, IL, to points in AL, AZ, CA, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MD, MA, MN, MS, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WY, and the District of Columbia. 38. *Ceiling suspension systems,* from Chicago, IL, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, the Lower Peninsula of MI, MS, MO, NE, NJ, NM, OH, OK, TN, TX, and WV, and to points in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301. 39. *Roofing, siding, waterproofing, and insulating materials,* (a) from East St. Louis, IL, to points in IN, IA, KS, KY, MI, MS, MO, NE, and TN, and points in that part of AR west of U.S. Highway 67. (b) From Chicago Heights, IL, to points in AR, IN, IA, KY, the Lower Peninsula of MI, MN, MS, MO, and TN. (c) From Kansas City, MO, to points in IN, IA, MN, and OK. (d) Between Avery, OH, on the one hand, and, on the other, East St. Louis and Chicago Heights, IL, and Kansas City, MO. 40. *Oak flooring and millwork,* (a) from Memphis, TN, to points in GA, IN, KY, MD, MI, MN, NC, OH, PA, VA, WI, WV, NJ, NY, SC, IA, MO, and IL. *Oak flooring,* (b) from Grenada, MS, to points in GA, IN, KY, MD, MI, MN, NC, OH, PA, VA, WI, WV, NJ, NY, SC, IA, MO, and IL. *Prefinished plywood paneling and particle board,* (c) from Memphis, TN, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NH, NC, OH, OK, PA, TN, TX, VA, and WI. 41. *Gypsum products, composition boards; insulating materials; roofing and roofing materials; urethane and urethane products; and related materials, supplies and accessories* incidental thereto, (a) from points in Henry County, TN, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AK, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, and the District of Columbia. (b) From L'Anse, MI, to points in CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, SC, GA, AL, MS, FL, and the District of Columbia. (c) From Fort Dodge, IA, to points in CO, NM, ND, SD, NE, KS, OK, TX, IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, SC, GA, AL, MS, FL, and the District of Columbia. (d) From Fort Dodge, IA, to points in MN. (e) From Port Clinton, OH, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, MI (except the lower peninsula), OH, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, AL, FL, GA, MS, SC, and the District of Columbia. (f) From Port Clinton, OH, to points in Bucks, Chester, Crawford, Delaware, Erie, Lehigh, Mercer, Monroe, Montgomery, Northampton, Philadelphia, Pike, and Wayne Counties, PA. (g) From Dubuque, IA, to points in CO, NM, ND, SD, NE, KS, OK, TX, MN,

IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, AL, FL, GA, MS, SC, and the District of Columbia. 42. *Gypsum products, composition board, insulating materials, roofing and roofing materials, and urethane and urethane products,* (a) from San Antonio, TX, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY, and the District of Columbia.

(b) From Hamlin, TX, to points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, WV, VA, NC, SC, GA, FL, AL, OH, IN, MI, IL, WI, MO, IA, MN, NE, ND, SD, WY, MT, and the District of Columbia. (c) From Marrero, LA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, VA, WY, NC, SC, KY, OH, IN, MI, IL, WI, IA, MO, MT, WY, CO, NM, and the District of Columbia. (d) From Fairfield, AL, to points in ME, NH, VT, MA, CT, MI, WI, MN, IA, MO, AR, TX, OK, KS, NE, ND, WY, CO, and the District of Columbia. (e) From Fairfield, AL, to points in NY, NJ, PA, DE, MD, VA, WV, NC, SC, TN, KY, OH, IN, IL, LA, and SD. 43. *Gypsum products, composition board, insulating materials, roofing and roofing materials, and urethane and urethane products,* (a) From Lagro, IN, to points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, MH, NY (except on and east of Interstate Highway 81), NC, ND, OK, RI, SC, SD, TN, TX, VT, VA, WI, WY, and the District of Columbia. (b) From Camden, AR, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, VT, VA, WY, WI, WY, and the District of Columbia. (c) From Chicago, IL, to points in AR, CT, DE, FL, IL, KS, KY, LA, ME, MA, MS, MO, NE, NH, ND, OK, RI, SC, SD, TN, TX, VT, WV, WY, and WI (except points in Milwaukee, Kewaunee, Brown, Baukesha, Racine, Calumut, Kenosha, Manitowoc, Washington, Sheboygan, and Osaukee Counties, WI). (d) From Peoria, IL, to points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI (except points in Racine, Milwaukee, Waukesha and Kenosha Counties, WI), WY, and the District of Columbia. 44. *Accessories* used in the installation of drywalls, from Cleveland, OH, to points in CT, KY, MD, MA, NJ, RI, WV, points in that part of MI north of the Northern boundaries of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, and the Huron Counties, points in that part of NY on and east of a line beginning at Oswego, NY and extending east along U.S. Highway 104 to junction New York Highway 57, thence along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the NY–PA State Line, points in that part of IN south of U.S. Highway 40, points in that part of IL south of U.S. Highway 24, and WI. 45. *Heating and cooling systems* (except refrigerated showcases), from Kansas City, MO, to points in the U.S. (except AK, CA, HI, ID, MT, ND, OR, SD, WA, and WY). 46. *Glass glazing units,* (a) From Mason City, IA, to points in the U.S. except AK, HI, AZ, CA, IL, IA, ID, MN, NV, ND, SD, NE, OR, UT, and WA, and Kansas City, and St. Louis, MO, and their commercial zones as defined by the Commission. *Flat glass,* (b) From Ottawa, IL, to points in the U.S., except AK, HI, AZ, CA, ID, NV, OR, UT, and WA. *Flat glass, glass glazing units, and glass doors, and fittings,* (c) From Toledo, OH, to points in the U.S., except AK, HI, AZ, CA, ID, NV, OR, UT, and WA, and except Detroit, Pontiac, Monroe, Flint, Grand Rapids, Battle Creek, Benton Harbor, Holland, Jackson, Kalamazoo, and Muskegon, MI, Indianapolis, and South Bend, IN, Rock Falls and Rock Island, IL, and Milwaukee, WI, and their commercial zones as defined by the Commission, and Hammond, IN. 47. *Electric cable tray systems, and accessories, parts, and fittings* incidental to the completion, erection, and installation of such cable tray systems, from Florence, KY, to points in AL, AK, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia. 48. *Wrought steel pipe and conduit,* from Baltimore, MD, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OK, TX, TN, and points in that part of WI on and south of a line beginning at Milwaukee, WI, and extending west along Interstate Highway 94 to Madison, WI, thence along WI Highway 151 to the WI–IL State Line. 49. *Wrought electrical conduit and electrical metallic tubing,* from Ambridge, PA, to points in IL north of U.S. Highway 40 (except points in Cook DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, IL), AL, IA, KS, MI, (except points on and south of MI Highway 21), MN, MO, NE, and WI. 50. *Steel studding and steel faced plasterboard,* from Westlake, OH, to points in AR, CO, IL, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NH, NM, NY, ND, OK, RI, SD, TX, VT, VA, WV, and WI. 51. *Metal siding and guttering, and steel roofing, flooring, doors, windows, beams, channels, and lath,* used in the construction or repair of buildings, from Milwaukee, WI, to points in the U.S. (except points in AK, HI, WA, OR, ID, UT, NV, CA, MN, ND, SD, MT, WY, CO, the Upper Peninsula of MI, NC, SC, VA, WI, and NM). 52. *Buildings, building sections, building component parts, and building panels, and accessories* thereto, from Terre Haute, IN, to points in CO, NM, UT, NV, ID, MT, ND, SD, and WY. 53. *Doors and frames,* from Carlstadt, NJ, to points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. 54. *Prefinished wall panels, composition board, wallboard, plywood and moldings,* (a) From Pittsburg, KS, to points in ME, NJ, NH, VT, MA, RI, CT, NY, PA, DE, MD, VA, WV, NC, SC, FL, MN, ND, SD, NE, MT, WY, CO, NV, NM, AZ, UT, ID, WA, OR CA, and IA. *Prefinished wall panels and composition board,* (b) From Pittsburgh, KS, to points in IL, IN, MI, WI, OH, AR, KY, and TN. 55. *Air conditioning, cooling, and heating equipment, and accessories thereto,* from Harrisonburg, VA, to points in KY, TN, MI, IN, IL, WI, MO, AR, LA, TX, OK, KS, SD, and ND. 56. *Buildings,* complete, knocked down and in sections, from Houston, TX, to points in CA, CO, ID, NV, NM, NC, OR, UT, and WA. 57. *Bituminous fiber pipe,* from West Bend, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and the District of Columbia. 58. *Storage racks, and pallet racks,* from Houston, TX, to points in the U.S. (except Birmingham, Selma, and Mobile, AL, Pensacola, FL, and Atlanta, GA, and except points in East Baton Rouge and West Baton Rouge, Parishes, LA, AK and HI).

59. *Floor systems and furniture,* from Laona, WI, to points in AL, AR, CT, DE, FL, GA, KS, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and Washington, DC. 60. *Wrought steel pipe,* from St. Louis, MO, to points in OK and WI. 61. *Buildings, in sections, mounted on wheeled undercarriages,* from Lawrenceville, VA, to points in SC. 62. *Structural steel, steel joists, steel bars, reinforcing bars, and fabricated steel,* from St. Louis, MO, to points in AL, AR, CO, FL, GA, IL, IN, KY, LA, MS, OH, TN, and TX. 63. *Concrete additives, flooring compounds, grouting compounds, and curing compounds,* except commodities in bulk, (a)(1) from Cleveland, OH, to points in the U.S. (except WA, OR, CA,

NE, ID, UT, AZ, AK, HI, OH, WI, and the Upper Peninsula of Michigan). (2) from Buffalo, NY, to points in the U.S. (except WA, OR, CA, NV, ID, UT, AZ, AK, HI, and NY). (3) from Springfield, MO, to points in the U.S. (except WA, OR, CA, NV, ID, UT, AZ, AK, HI, and MO). *Structural floor supports,* (b) from Seville, OH, to points in MI, IN, IL, IA, KY, TN, WI, MO, and AR. *Corrosion-proof materials, products, and supplies,* (c) from Berea, OH, to points in the U.S. (except AK, HI, OH, WI, the Upper Peninsula of MI, NC, SC, GA, AL, MS, Houston and Odessa, TX, New Orleans, LA, Tulsa, OK, and Denver CO). 64. *Plywood,* over irregular routes, (a) from Cotton Plant, AR, to points in MS, LA, KY, and TN. *Hardwood flooring,* (b)(1) from Magnolia, AR, to points in CO, LA, MS, AL, GA, FL, IL, OH, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, and the District of Columbia. (2) from Warren, AR, to points in NC, SC, GA, FL, AL, MS, TN, LA, MD, VA, WV, NE, CO, UT, NM, AZ, NV, CA, OR, WA, and the District of Columbia. *Composition board, fiberboard, and pulpboard,* (c) from Meridian, MS, to points in IL, IN, IA, KY, MI, MO, OH, PA, and WI. *Composition board,* (d) from Arkadelphia, AR, to points in the U.S. (except AL, AR, FL, GA, HI, MS, and TN). *Wallboard, moldings, paneling, composition board, and pulpboard,* (e) from Rotan, TX, to points in the U.S. (except AK, AZ, AR, HI, IL, IA, KS, LA, MS, MO, NE, NM, OK, TN, and UT). *Pulpboard and paper,* (f) from Livingston, AL, to points in the U.S. (except HI and AK). *Particleboard,* (g) from Silsbee, TX, to points in AL, AR, FL, GA, LA, MS, MO, NC, SC, OK, and TN. 65. *Prefabricated steel columns,* (a) from Orland Park, IL, to points in the U.S. (except points in AK, HI, IN, ID, IA, MN, MI, MT, NE, ND, OR, SK, UT, WA, WY, that part of OH west of a line beginning at the OH–MI State Line at Toledo, OH, and extending along U.S. Highway 23 to Columbus, OH, thence along U.S. Highway 62 to Washington Court House, thence along U.S. Highway 22 to Cincinnati, OH, at the OH–KY State Line, and points in Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, IA, Jefferson, Lafayette, Kenosha, Ozaukee, Racine, Richland, Rock, Sheboygan, Walworth, Washington, and Waukesha Counties, WI). *Bathroom and shower doors, tubs, shower enclosures, shower stalls and parts and accessories thereof,* (b) from Chicago, IL, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and the District of Columbia. 66. *Doors, millwork, and accessories,* (a) from points in Lucas County, OH, to points in AR, IL, IN, IA, KY, MO, TN, WI, NC, SC, GA, points in that part of MI north and west of a line beginning at Port Huron, MI, and extending along MI Highway 21 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction MI Highway 20, thence along MI Highway 20 to New Era, MI, thence along unnumbered highway to Lake MI (at or near Benona, Michigan), and points in that part of VA south of U.S. Highway 460 and on and east of U.S. Highway 301. *Roof deck and accessories,* (b) from Oregon, OH, to points in AR, IL, IN, IA, KY, MI, MO, WI, and TN, with no transportation for compensation on return except as otherwise authorized. 67. *Ceiling suspension systems, wall systems, venetian blinds, drapery hardware, and folding doors,* from Baltimore, MD, and Columbia, MD, to points in the U.S. (except AK, HI, DE, FL, GA, MD, NC, NJ, NY, PA, SC, VA, WV, and the District of Columbia).

68. *Aluminum pipe, aluminum billets, aluminum dross, aluminum fittings, and unfinished aluminum shapes,* (a) From Ellenville, NY, to points in MN, IA, NE, KS, MO, OK, and TX. *Steel conduit,* (b) From Bala-Cynwyd, PA, to points in IN, KY, and TN. 69. *Fencing, netting, wire, fence stretchers, gates, and posts,* (a) From Mt. Sterling, OH, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, PA, RI, VT, VA, WV, WI, and the District of Columbia. (b) From Houston, TX, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, KS, LA, ME, MD, MA, MS, MT, NE, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, UT, VT, WA, and WY, and Chicago, IL, St. Louis, MO, Kansas City, MO, Memphis, TN, and the District of Columbia. 70. *Roofing, wallboard, insulation materials and paving materials with accessories,* used in connection therewith, from Lockland, OH, to points in IL, IN, IA, KS, KY, MI, MN, MO, NY, PA, TN, WV, and WI. 71. *Siding made of aluminum or steel and accessories and tools used in the installation thereof,* from Milwaukee, WI, to points in WA, OR, ID, MT, WY, ND, SD, NE (except Omaha), KS, OK, TX (except Amarillo, Lubbock and El Paso), IA, MO, AR, LA, KY, TN (except Memphis), MS, AL, WV, that part of VA north of U.S. Highway 460 and west of U.S. Highway 301, and Galesburg, IL. 72. *Gypsum, gypsum products, and materials and supplies used in the installation and distribution thereof,* over irregular routes, (a) From Akron, NY to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia, and points in Hamilton and Lucas Counties, OH. (b) From Chicago, IL, to points in AR, CO, CT, DE, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SD, TN, TX, VT, WV, WI, WY, and the District of Columbia, and points in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301. (c) From Grand Rapids, MI, to points in AR, CO, CT, DE, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SD, TN, TX, VT, WV, WI, WY, and the District of Columbia, and points in that part of Virginia north of U.S. Highway 360 and west of U.S. Highway 301 including Richmond, Petersburg, Roanoke, and Lynchburg, VA. (d) From points in Marshall County, KS, to points in AL, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia, and points in that part of MO on and east of U.S. Highway 63. 73. *Building board, wallboard, and fiberboard, and parts and accessories used in the installation thereof,* (a) From Lockport, NY, to points in MI, TN, KY, WI, IN, IL, IA, MO, and AR. (b) From Bristol, IN, to points in OH, MI, TN, KY, WI, IL, IA, MO, and AR. 74. *Wall systems and doors,* from Merrill, WI, to points in the U.S. (except AK, HI, WI, and the Upper Peninsula of MI and Rockford and Chicago, IL, and points in their commercial zones as defined by the Commission located in IL). 75. *Hardboard flooring systems, hardwood flooring, lumber, lumber products and accessories used in the installation thereof,* from Ishpeming, MI, and White Lake, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, NE (except the part west of U.S. Highway 81), and Washington, D.C. 76. *Hardwood flooring systems, wood flooring, lumber, lumber products and accessories* used in the installation thereof, from Dollar Bay, MI, to Washington, DC, and points in AL AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. 77. *(A)* (1) *Buildings,* complete, knocked down, or in sections, (2) *materials, supplies and accessories,* for buildings, (3) *wood products,* (4) *composition wood products,* (5) *laminated products,* and (6) *parts and accessories* for the products in

(3), (4), and (5) above, from Waunakee and Madison, WI, to points in the U.S. (except WA, OR, AK, and HI). *(B) Returned shipments of, and materials and supplies* used in the manufacture and distribution of the products authorized in part (A) above, from points in the U.S., to Waunakee and Madison, WI. 78. *Storage racks and storage rack parts,* from Quincy and Rock Island, IL, to points in the U.S. (except AK and HI). 79. *Lumber and lumber products,* from Memphis, Covington, TN, to points in MN, WI, IA, MO, AR, IL, MI, IN, KY, OH, GA, NC, SC, VA, WV, MD, PA, DE, NJ, NY, CT, RI, and MA.

80. *Lumber and lumber products,* from Bruce, MS, and Monterey, TN, and Jackson and Nashville, TN, to points in MN, WI, IA, MO, AR, IL, MI, IN, KY, OH, GA, NC, SC, VA, WV, MD, PA, DE, NJ, NY, CT, RI, and MA. 81. *Steel roofing,* (a) From Martin's Ferry, OH, to points in AR, IL, IA, KS, KY, LA, Upper Peninsula of MI, MN, MS, MO, NE, OK, TN, (except points on and east of U.S. Highways 31 and 31–W), and TX. *Steel roofing, steel lathing, steel studding, steel corner bead, steel channels, iron and steel furring, expanded metal concrete reinforcement, structure steel footwalks, column or floor concrete construction forms and accessories, (b)* From Beech Bottom, WV, to points in AR, IL, IA, KS, LA, Upper Peninsula of MI, MN, MS, MO, NE, OK, TN (except points on and east of U.S. Highways 31 and 31–W), TX, and WI. 82. *Roofing, siding, waterproofing, and insulating materials,* over irregular routes, from Chicago Heights, IL, to points in KS. 83. *Plywood paneling and cellulose building board,* from Oshkosh, WI to points in the U.S. (except AK, HI, and WI). 84. *Ventilators and ventilating systems, and parts and equipment thereof,* from Kokomo, IN, to points in AL, AR, CO, CT, DE, GA, IA, KS, KY, LA, ME, MD, MA, the Upper peninsula of MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, Galesburg, IL, Washington Court House and Jamestown, OH, and the District of Columbia. 85. *Building panels,* from Houston, TX, to points in the U.S. (except AK and HI). 86. *Ventilators and ventilator systems and parts and equipment therefor,* from Junction City, KY, to points in NJ, NY, and PA. 87. *Fibreboard,* from Wheaton, IL, to points in OH, PA, IN, KY, IA, MO, MN, NE, KS, OK, AR, TN, the lower Peninsula of MI, and those points in WI, located on and south of U.S. Highway 10. 88. *Building board,* from Kalamazoo, MI, to points in the U.S. (except points in AK, GA, HI, IL, IN, IA, MI, NC, OH, SC, WV, WI, that part of NY north of U.S. Highway 6, that part of PA on and west of a line beginning at the PA–NY State Line and extending along Interstate Highway 81 to junction PA Highway 61, thence along PA Highway 61 to Reading, PA, and thence along PA Higway 10 to the PA–MD State Line, and St. Louis, MO, Omaha, NE, and Louisville, KY, and points within their respective commerical zones as defined by the Commission). 89. *Building materials,* from Ann Arbor, MI, to points in NY, MA, RI, CT, NH, VT, ME, MD, NJ, DE, PA, WV, and the District of Columbia. 90 *Grid wall systems,* from Lima, OH, to points in the U.S. (except AK and HI). 91. *Wire, nails, mesh, staples, gates, rods, reinforcement bars, corrugated sheets, billets, and fencing,* , from Kokomo, IN, to points in AR, KS, MN, NE, ND, SD, WV, and points in that part of the MI on the north of U.S. Highway 10, including points in the Upper Peninsula of MI. 92. (1) *Buildings, complete, knocked down, or im sections,* (a) from Paris, IL, to points in AZ, CA, CO, CT, ID, ME, MA, MT, NV, NH, NM, ND, OR, RI, SC, SD, UT, VT, WA, and WY. (2) *Wall systems, wall panels, parts and accessories, and parts of buildings,* (b) from Paris, IL, to points in the U.S. (except AK and HI). (3) *Returned shipments, and materials, equipment and supplies* used in the manufacturing and distribution of the products described in (1) and (3) above, (c) from points in the U.S., except AK and HI, to Paris, IL. 93. *Tile and bathroom accessories,* except plumbing fixtures, (a) 1. from Baltimore, MD, to points in KY and MN. 2. from New Orleans, LA, to points in TN. *Bathroom accessories,* except plumbing fixtures, (b) from Baltimore, MD, to points in IL, IN, MI, and OH. *Marble window stools,* and *marble saddles,* (c) from Baltimore, MD, to Cincinnati, OH. 94. (1) *Iron and steel articles,* (a) from Columbus, OH, to points in that part of the U.S. west of a line extending along the eastern boundaries of MN, IA, MO, AR, and MS (except AK and HI). (2) *Environmental control systems,* (b) from Columbus, OH, to points in the U.S. (except AK, HI, TN, NC, SC, AL, GA, FL, MA, CT, RI, those in NJ, and PA within 30 miles of Philadelphia, PA, including Philadelphia, PA, those in NJ within 30 miles of Jersey City, including Jersey City, and those in the NY within 30 miles of NYC, including NYC).

95. *Plumber's goods, kitchen, bathroom or lavatory fixtures, and accessories,* (a) From Springfield, OH, to points in the U.S. except AK, HI, AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, NE, NC, OH, OK, PA, SC, that part of VA south of U.S. Highway 460 and east of U.S. Highway 301, and WI. (b) From Ford City and Scranton, PA, and Salem, OH, to points in IL, IA, KY, points in those parts of LA and MS on and east of U.S. Highway 61, the Upper Peninsula of MI, MN, TN, and WI. 96. *Lumber and lumber products,* from Grandville, MI, to points in IL, IN, and WI. 97. *Building materials,* from Emsworth, PA, and Cambridge, OH, to points in the U.S. (except AK, AZ, CA, CO, HI, ID, MT, NE, NV, NM, MD, OR, SD, UT, WA, and WY. 98. *Plywood,* from Chicago, IL, to points in IL, IN, IA, KY, MI, MN, MO, and WI. 99. *Dry portland cement and products thereof and chemical adhesives* in containers, from Kansas City, MO, to points in MI, MN, WI, IL, NE, IA, KS, OK, AR, CO, WY, IN, TN, KY, and PA. 100. *Insulation materials,* and *tools, materials, and supplies* used in the installation of insulation materials when moving in mixed loads with insulation materials, (a) from Cleveland, OH, to points in MI, IN, IL, OH, KY, TN, LA, MS, AL, NY, PA, WV, ME, NH, VT, MA, RI, CT, NJ, DE, MD, VA, and the District of Columbia. (b) From Minneapolis, MN, to points in KS, OK, TX, MO, AR, LA, MI, IN, OH, KY, TN, MS, AL, PA, WV, and VA. 101. *Wood fiberboard,* from Doswell, VA, to points in AR, IL, IN, IA, KY, MI, MO, OH, TN, WI, AL, CT, DE, LA, ME, MD, MA, MN, MS, NH, NJ, NY, NC, PA, RI, VT, WV, and the District of Columbia. 102. *Insulation materials,* (1) from Houston, TX, to points in AR, AZ, AL, LA, MS, MT, NM, NV, and UT, and (2) from Atlanta, GA, to points in LA, MS, and TX. 103. *Partitions, panels, doors, plastic laminates, flooring, environmental systems, air conditioning, and materials* used in the erection or installation of said commodities, from Grand Rapids, MI, to points in the U.S. (except AK and HI). 104. (1) *Lumber and lumber products,* (a) from Ashland, MT, to points in the U.S. (except AK, HI, SD, MN, WI, IL, IA, NE, CA, CO, WY, and MT. (2) *Lumber, lumber products, and construction board,* (b) from Dallas, Foster, Griggs, Lebanon, Sweet Home, Springfield, Redmond, Millersburg, Bend, Portland, and Albany, OR, and Sheldon and McCleary, WA, to points in that part of the U.S. east of the western boundaries of MT, WY, CO, and NM (except points in IL, IN, IA, KS, MO, WI, and WY). (c) From points in that part of CA located north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, to points in that part of the U.S. east of the western boundaries of MT, WY, CO, and NM. (3) *Particleboard,* (d) from Missoula, MT, to

points in that part of the U.S. east of the western boundaries of MN, IA, MO, OK, and TX. 105. *Air-conditioning and ventilating machinery, equipment, parts, and components,* from Staunton and Verona, VA, to points in the U.S. (except AK, DE, FL, GA, HI, MD, NJ, NC, PA, SC, WV, VA, and the District of Columbia). 106. *Steel columns, steel joists, steel beams, steel roofing deck, steel shapes, and steel trusses,* from Canton and Fairhope, OH, to points in IL and WI. 107. *Plumbing fixtures and plumbing accessories,* from Ferguson, KY, to points in the U.S. except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY. 108. *Particleboard and plywood,* from Simsboro, LA, Minden, LA, Hunt, LA, and Ruston, LA, to points in the U.S. (except AK and HI). 109. *Fabricated structural steel,* from Wilmington, OH, to points in the U.S. (except AL, AK, CT, DE, FL, GA, HI, LA, ME, MD, MA, MS, NH, NJ, NC, RI, SC, VT, WV, and the District of Columbia. 110. *Glass,* from Monroe County, MI, to points in the U.S. (except AK, HI, IN, MI, and OH). 111. *Fabricated steel,* from Waco, Abilene, and Midland, TX, to points in AL, AZ, AR, CA, FL, GA, ID, KY, LA, MS, NM, NC, PA, SD, TN, UT, WV, and WY. 112. *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding system and parts and accessories* for the above, from Kankakee and Eureka, IL and Elkhorn, WI, to points in the United States (except AK, AZ, CA, HI, OR, and WA). 113. *Iron and steel fencing,* from Houston, TX, to points in WA, OR, CA, NV, AZ, UT, ID, MT, WY, OH, and the District of Columbia. 114. *Metal decking,* from Braddock, PA, to points in the U.S. (except points in AK, HI, VA, NC, SC, and GA). 115. *Ventilators, vents, louvers, shutters, suspension ceiling systems, ceiling grid, wall studding, channels, closet rods, caps, dampers, screens, grilles, glass frames, and stops,* from Tucker, GA, to points in AR, LA, MS, KY, ME, NH, and VT, points in that part of NY north of NY Highway 7, and Fort Worth, TX, and Mt. Carroll, IL. 116. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections* and *building panels,* (3)*parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components* and panels and accessories used in the installation and completion thereof, from Fayette County, OH, to points in the U.S. (except OH, AK, and HI). 117. *Construction materials,* from Franklin Park, IL, to Atlanta and Tucker, GA, and points in CT, DE, FL, KS, KY, LA, ME, MD, MA, MS, MO, NV, NH, NJ, NY, NC, OK, PA, RI, SC, TN, UT, VT, VA, WV, and the district of Columbia. 118. *Metal flooring systems, frames, and storage racks,* from Pontiac, MI, to points in AK, AR, CO, DE, FL, ID, IA, KS, ME, MA, MI, MN, MT, NE, NV, NH, ND, OR, RI, SD, UT VT, VA, WA, WV, WI, and WY, and the District of Columbia. 119. *Wood Fiberboard, from Moncure, NC, to points* in IL, IN, KY, OH, MI, NJ, NY, and PA. 120. *Sheet metal products and materials and supplies* used in the installation thereof, (a) From Philadelphia, PA, to points in ME, NH, VT, NY, MA, CT, RI, OH, TN, WV, VA, NC, SC, GA, and FL. (b) From Dallas, TX to points in WY, CO, NM, KS, NE, OK, TX, MO, AR, LA, MS, AL, and FL. (c) From Arlington Heights, IL. to points in MT, ND, SD, NE, MN, WI, IA, MO, IL, IN, KY, TN, OH, and MI. 121. *Structural floor supports and tubular products,* from Seville, OH, to points in TX, OK, NE, SD, ND, NM, WY, MT, NC, SC, VA, MD, DE, NJ, WV, and the District of Columbia. 122. *Sheet metal products and materials and supplies* used in the installation thereof, from Philadelphia, PA, to points in the U.S. (except points in AK, FL, GA, HI, PA, and SC). 123. *Ceramic tile and face brick,* from Franklin County, OH, to points in IL, IN, WI, AR, IA, KY, MO, TN, and Traverse City, MI. 124. *Urethane and urethane products, roofing and roofing materials, composition board, and gypsum products,* from Charleston, IL, to points in that part of the U.S. in and east of MT, WY, CO, and NM, (except IL). 125. *Particle board, plywood, hardboard,* and when shipped therewith, *moldings and accessories,* from Franklin Park, IL, to points in IL, MI, TX, WI, and that part of Ohio on and west of Interstate Highway 71. 126. *Floor covering,* from Marcus Hook, Pa, and Trenton and Kearny, NJ, to points in IA, MN, MT, NE, ND, SD, and WI. 127. *Steel building, complete, knocked down, or is sections,* from Houston, TX, to points in CT, IN, IA, ME, MI, MO, NH, OH, and VT. 128. *Prefabricated metal building panels, metal building sections, metal structural components, and accessories thereof,* from Stafford, TX, to points in the U.S. (except AK, HI, AR, AL, FL, LA, MS, TN, OK, NM, and TX). 129. *Pollution control equipment and accessories,* from Roanoke, IL, to points in CT, DE, FL, IL, IN, IA, NY, ME, ND, MA, MI, MN, MS, MO, NE, NH, NJ, KY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI. 130. *Pipe and metal shapes and forms,* from Harvey, IL, to points in IA, KS, MO, NE, ND, SD, and VA. 131. *Paper tubing and cores,* from Florence, KY to points in GA, KS, MA, MI (except Detroit), MO, NY, PA (except Pittsburgh and points within Allegheny, Beaver, and Washington County, PA), TN, WV (except those points west of U.S. Highway 119 and Wheeling) and WI. 132. *Urethane products,* from Elizabethtown, KY, to points in that part of the U.S. in and east of MT, WY, CO, and NM. 133. *Chimney assemblies, chimney pipe and venting, and accessories,* from Logan, OH, to points in AZ, CA, ID, NV, NM, OR, UT, and WA. 134. *Mortar cement, carpet amd linoleum paste cement, waterproof compounds, and cleaning compounds,* from Houston, TX, to points in AL, AR, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NC, OH, PA, SC, TN, VA, WV, and WI.

135. *Concrete roof tile,* from Vincennes, IN, to points in AL, AR, IL, IA, KS, KY, LA, MN, MO, NE, NJ, NY, TN, TX, and VT. 136. *Plastic pipe,* from Calhoun County, AR, to points in the U.S. (except AK and HI). 137. *Wire, nails, mesh, staples, gates, rods, reinforcement bars, corrugated sheets, billets, and fencing,* from Kokomo, IN, to points in IL, IA, LA, MS, MO, NY, OK, PA, TX, and WI. 138. *Steel tubing,* from Hamlet, IN, to points in AZ, CA, CO, IL, IA, KS, KY, MN, MO, NE, OK, TN, and TX. 139. *Roofing and roofing materials,* from Joliet, IL, to points in IA and WI. 140. *Roofing materials, and siding materials,* from St. Louis, MO, to points in AL, DE, FL, KY, MD, MA, NJ, NY, OH, PA, TN, (except Memphis), and WV. 141. *Iron and steel fencing,* from LaGrange, TX, to Louisville, KY, and points in MT, ID, WA, OR, CA, NV, IA, UT, WY, NE, CO, AZ, NM, OK, MO, KS, AR, ND, SD, MN, MI, WI, IN, IL, the District of Columbia, and that part of OH on, west, and north of a line beginning at a point on the OH–PA State Line near Sharon, PA, and extending along U.S. Highway 62 to Columbus, OH, thence along U.S. Highway 23 to Circleville, OH, and thence along U.S. Highway 22 to Cincinnati, OH. 142. *Fencing, netting, wire, fence stretchers, gates and posts,* from Mt. Sterling, OH, to points in AZ, AR, CA, CO, ID, LA, NE, NV, NM, OK, OR, TN, and TX. 143. *Pipe,* from Springfield, IL, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, and ND. 144. *Steel tanks,* knocked down, (a) From Parsons, KS, to points in the U.S. (except AK, HI, IL, WI, and AR). *Steel access structures, loading racks, and towers,* (b) From Parsons, KS, to points in the U.S. (except AK and HI). *Iron and steel articles and fiberglass articles,* (c) From Shreveport-Bossier City, LA, to points in the U.S. (except AK and HI). 145. *Plywood paneling,* (a) From

Camden, NJ, to points in OH and PA. *Hardwood paneling,* (b) From Stuttgart, AR, to points in MA, NJ, NY, PA, and RI. 146. *Game tables,* from Perrysburg, OH, to points in PA, MI, CO, MA, TX, UT, WI, IL, IN, MD, VA, WV, the District of Columbia, and NY (except NYC, and points in Weschester and Nassau Counties, NY). 147. *Insulation materials,* from Cleveland, OH, to points in NJ, NY, KY, MD, PA, WV, (except points within 50 miles of Steubenville, Ohio), IL, IN, and MI. 148. *Metal panels, building parts and accessories* used in the installation thereof, from Rankin, Pa. to points in the U.S. (except AK and HI). 149. *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage matering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories,* from DeKalb, IL, to points in the U.S. (except AK and HI). 150. *Wooden cabinets, counter tops, and sinks,* from Fenwick, Paw Paw, and Moorefield, WV, and Berryville and Winchester, VA, to points in CA and NV. 151. *Building board and insulating materials,* from Huntington, IN, to points in AZ, AR, CA, CO, CT, LA, ME, MA, MN, MS, MO, MT, NE, NV, NH, NM, ND, OK, OR, RI, SD, TN, TX, UT, VT, WA, WI, and WY. 152. *Buildings,* complete, knocked down, or in sections, and *component parts* thereof, from Youngsville, LA, to points in the U.S. (except AK and HI). 153. *Building materials,* between points in AR, IL, IN, IA, KY, MI, MO, OH, TN, and WI. 154. *Buildings,* complete, knocked down, and in sections, *building sections* and *buildings panels,* and *metal prefabricated structural components,* from Atlantic, IA, to points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. 155. *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts, from Birmingham, AL, to points in the U.S. (except AL, AK, and HI). 156. *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts, from Galesburg, IL, to points in the U.S. (except AK, HI, and IL). 157. *Composition board,* from Marion, SC, to points in the U.S. on and east of the western boundaries of MN, IA, MO, AR, and LA. 158. *Plastic pipe, fittings, and flashings,* from Bakers Community (Union County), NC, to points in FL, WI, MN, IA, MO AR, MS, LA, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AZ, NV, WA, OR, and CA. 159. *Plastic pipe, and vnyl siding,* from Williamsport, MD, to points in IL, OH, and WI. 160. *Industrial cleaning and washing machines,* from Paris, IL, to points in the U.S. in and east of MT, WY, CO, and NM, except points in IL. 161. *Concrete construction forms and open and closed top incinerators,* from Kansas City, MO, to points in the U.S. (except AK and HI). 162. (1) *Buildings,* (2) *building sections and panels,* (3) *parts and accessories* used in the installation and completion of buildings and building sections and panels, and (4) *metal prefabricated structural components and panels,* and accessories used in the installation and completion thereof, from EL Paso, IL, to points in AZ, CA, CO, CT, ID, ME, MA, MT, NV, NH, NM, ND, OR, RI, SD, UT, VT, VA, WA, WV, and WY. 163. *Such commodities* as are dealt in by manufacturers and distributors of panels, paneling, shelving, mantels, and beams, from Lodi, NJ, and Deer Park, NY, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN TX, UT, WA, WI, and WY. 164. *Manufactured fireplace logs,* (a) From Montrose, CO, to points in AR, AZ, CA, IL, IN, IA, KS, KY, MI, MO, OH, TN, TX, and WI. *Wood paneling* from Montrose, CO, to points in KY and TN.

165. *Bleachers and grandstands, and bleacher and grandstand components,* from Three Rivers, MI, to points in AR, MO, IA, WI, TN, NY, MN, WV, KY, PA, IL, IN, MI, OH, and VA (except points in that portion of VA on and south of U.S. Highway 460 and on and east of U.S. Highway 301). 166. (1) *Lavatories, sinks, and faucets,* and (2) *materials, supplies and equipment* used in the manufacture, distribution and installation of the commodities in (1) above, between Paris, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). 167. *Reinforcing steel,* from Bowie, MD, to points in WV, PA, OH, IN, KY, MI, RI, MA, NJ, and ME. 168. *Iron and steel articles,* from Lackawanna, NY, to points in IL, IN, the Lower Peninsula of MI, OH, and WI. 169. *Metal flooring systems,* frames and stroage racks, from Pontiac, MI, to points in AL, AZ, CA, CT, GA, IL, KY, LA, MD, MS, MO, NJ, NY, NC, TN, and TX. 170. (1) *Countertops, sinks, and sink frames, lighting louvers and window sills,* (a) from St. Louis County, MO, and Dallas, TX, to points in the U.S. (except AK and HI). (2) *Materials* used in the manufacturing of the commodities names in (1) above, (b) from points in the U.S. (except AK and HI) to St. Louis County, MO, and Dallas, TX. 171. *Building board,* from Meridian, MS, to New Orleans and Baton Rouge, LA. 172. *Canned goods (unfrozen),* from Hoopeston and Princeville, IL, and St. Francisville and Belle Deau, LA, to points in the U.S. in and east of MT, WY, CO, and NM. 173. *Crated cabinets, vanities, and cases,* from Jeffersonville, IN, to points in AR, IL, KY, LA, MI, MS, NM, NY, OH, PA, TN, and that part of WY south of Niobrara, Converse, Natrona, Fremont, Sublette, and Lincoln Counties. 174. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from Gregg County, TX, to points in the U.S. (except AK and HI). 175. (1) *Iron and steel articles,* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (a) from Midlothian, TX, to points in AR, LA, MS, OK, and TN. (2) *Iron and steel scrap,* (b) From points in AR, LA, MS, OK, and TN, to Midlothian, TX. 176. *Shower stalls and bathtubs,* from Monroe, OH, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX (except OH). 177. *Sheet metal products and materials and supplies* used in the installation of sheet metal products, from Peoria, IL, to points in IA, IN, KY, MI, MN, MO, MT, NE, ND, OH, SD, TN, and WI. 178. *Overhead doors,* from Dallas, TX, to points in PA, IN, TN, MO, IA, IL, and KS. 179. *Roofing panels, structural panels, and exterior panel systems,* from Grand Rapids, MI, to points in the U.S. (except AK and HI). 180. *Roofing and roofing materials and accessories* used in the installation of roofing, from Memphis, TN, to points in AR, MO, MS, LA, and KY (except Louisville). 181. *fencing, netting wire, fence stretchers, gates, and posts,* from U.S. (except AK, HI, IL, IN, IA, KY, MI, MN, MO, NE, ND, SD, TN, TX, VA, WV, and WI). 182. *Structural and fabricated steel,* from Lufkin, TX, to points in the U.S. (except points in AK, AR, AZ, CA, CO, KS, LA, NM, OK, TN, and TX). 183. *(1)* (a) *iron, steel, zinc, lead and articles or products* thereof; (b) *building and construction materials, supplies, and equipment* (other than self-propelled), and, (c) *curing compounds,* from Kokomo, Fort Wayne, Elkhart, IN; Toledo and Columbus, OH, Lansing, and Grand Rapids, MI; Denver, CO; Albuquerque, NM; Centerville, IA; Blue Island, and Joliet, IL, to points in the United States (except AK and HI); and *(2) materials, equipment and supplies*

used in the manufacture and distribution of commodities in (1) above, from points in the U.S. (except AK and HI), to the origin points in (1) above. 184. *Modular mausoleum crypt systems,* from Bluffton, Allen County, OH, to points in the U.S. (except AK, HI, and OH). 185. *Plastic articles,* from Chesapeake, VA., to points in AL, AR, CT, DE, IL, IN, IA, KY, LA, ME, MD, MA, MN, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, TN, VT, WV, and WI.

186. *Doors, composition board, hardboard, and particleboard,* from Union and Wright City, MO, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. 187. *Panels, materials, equipment and supplies* used in the manufacture and distribution of panels, between Washington Court House, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). 188. *Wire products, fence posts and pipe,* from Del Rio, Eagle Pass, Laredo, Rio Grande City, Pharr and Brownsville, TX, to points in the U.S. (except AK, HI, AR, KS, LA, OK, and TN). 189. *Buildings, building panels, building parts, and materials, accessories,* and *supplies* used in the installation, erection, and construction of buildings, building panels, and buildings parts, from Annville, Lebanon County, PA, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, and WV, and the District of Columbia. 190. *Laminated composition board, laminated flakeboard, and laminated particleboard,* from Grand Rapids and Kentwood, MI, to points in the U.S. (except MI, AK and HI). 191. *Hardwood flooring, hardwood flooring systems, and accessories* used in the installation of such system, from Amasa, MI, to points in the U.S. (except AK nd HI). 192. *Building and construction materials,* from Medina County, OH, to points in AR, CO, IL, IA, KS, LA, MD, MA, MN, MS, MO, NE, NH, NM, NY, OK, PA, RI, TX, VA, and WV. 193. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections, building panels, and building parts,* (3) *accessories* used in the installation and completion of (1) and (2) above, and (4) *prefabricated structural components, panels, and parts and accessories* used in the installation and completion thereof from Renton, WA, to points in the U.S. (except AK, CA, HI, ID, OR, and WA. 194. *Composition board and plywood,* from Lucas County, OH, to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX (except OH). 195. *Pipe or conduit* (except iron and steel) and *fittings and accessories,* from West Chicago, IL, to points in the U.S. (except AK and HI). 196. *Millwork,* from Peru, IL, to points in AR, CA, CT, DE, ID, IL, IN, KY, LA, ME, MD, MA, MI, NV, NH, NJ, NY, NC, OH, OR, PA, UT, VT, VA, WA, WV, and WI. 197. (1) *Buildings, building panels,* and *building parts,* and (2) *materials, accessories,* and *supplies* used in the construction, installation, and erection of the commodities set out in (1) above, from Laurinburg, NC, to points in the U.S. (except AK and HI). 198. *Plastic cellular expanded or foamed boards or shapes,* from Cincinnati, OH, to points in the U.S., except AK and HI. 199. *General Commodities* (except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. 200. (1) *Fabricated aluminum products* and (2) *parts, attachments, and accessories* for the aforementioned commodities, in (1), from Bristol, IN, to points in DE, ME, NH, NJ, RI, VT, and WV and the District of Columbia. 201. *Roofing, roofing materials, and siding,* from Pulaski County, AR, to points in AL, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, OK, TN, and TX. 202. (1) *Siding and materials, equipment and supplies* used in the manufacture, distribution or installation of siding, (a) From Southfield, MI, to points in the U.S. (except CO, ID, MT, NV, ND, OR, SD, UT, WA, and WY); and (2) *materials, equipment and supplies* used in the manufacture, distribution or installation of siding, (b) from points in IL, IN, OH, ME, MN, MI, MO, MD, NY, IA, PA, and WV, to Southfield, MI. 203. (1) *Insulation materials,* (a) From Bridgeton, MO, to points in the U.S. in and east of MT, WY, CO, and NM (except AR, IL, IA, the lower peninsula of MI). (2) *Insulation materials,* (b) from Solon, OH, to points in the U.S. in and east of AR, IA, MN, LA, and MO. 204. (1) *Roofing, building, and insulating materials,* (a) From Granville County, NC, to points in AL, CT, DE, the District of Columbia, FL, GA, IL, IN, KY, MD, MA, the lower peninsula of MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA and WV. (2) *Materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials, (b) from points in the destination territory described in (1) above to Granville County, NC. (3) *Roofing, building and insulating materials* and *materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials,

(c) Between Clarke and Chatham Counties, GA; Cook and St. Clair Counties, IL; Scott County MN; Jackson County, MO; Erie County, OH; Mayes County, OK; York County, PA; and Dallas County TX. 205. *Materials, accessories, and supplies* used in the manufacture and/or construction of buildings, modular housing and mobile homes, from Mira Loma, CA, to points in AZ, CO, MT, NV, NM, UT, and WY. 206. *Cabinets, sinks, and contertops,* from Cucamonga, CA, to points in the U.S. (except AK and HI) 207. *Doors and door sections,* from Dalton, OH, to points in the U.S. (except AK and HI). 208. *Plastic building materials, tile flooring and molding,* from Union, MO, to points in the U.S. (except AK and HI). 209. *Building mortar and flooring and curing compounds, adhesives, and machinery and hand tools* used in the installation and application of the above-named commodities when shipped therewith, from Cleveland, OH, to points in AR, CO, DE, District of Columbia, IA, KS, LA, ME, MA, MI, NH, NC, ND, OK, SC, SD, TX, VT, VA, WV, and WI. 210 (1) *Fireplaces, barbecue grills, and parts and accessories* for fireplaces and barbecue grills, (a) from Shelbyville, KY, to points in the U.S. (except AK and HI). (2) *Materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, (b) from points in the U.S. (except AK and HI) to Shelbyville, KY. (3) *Fireplaces, barbecue grills, parts and accessories* for fireplaces and barbecue grills, and *materials, equipment and supplies* used in the manufacture or distribution of fireplaces and barbecue grills, (c) from Santa Fe Springs, CA, to Shelbyville, KY. (4) *Materials, equipment, and supplies* used in the manufacture or distribution of fireplaces and barbecue grills, (d) from Shelbyville, KY, to Santa Fe Springs, CA. 211. (1) *Gypsum, gysum products, and building materials,* and (2) *materials and supplies* used in the manfacture, installation and distrubtion of the commodities in (1) above, between Southard, OK on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, NS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI. 212. *Printed matter and materials,* equipment and supplies used in the manufacture, sale and distribution of printed matter, between Hammond, IN; Indianapolis, IN; Lexington, KY; Versailles, KY; Taunton, MA; Chicago, IL; Ossining, NY; and Nashville, TN; on the one hand, and on the other, points in the U.S. (except AK and HI). 213. *Construction materials and supplies,* from Conyers, GA, to points in the U.S. (except AK and HI). 214. (1) *Lumber and lumber products,* from (a) Flagstaff, McNary and Eagar, AZ, and (b) South Fork, CO, to points in

AR, MO, NM and OK; (2) *poles, posts and pilings,* (b) from Prescott, AZ to points in AR, MO, NM, OK, and TX, and (3), *molding,* (c) from McNary, AZ to points in IL, IN, TX, and WI. 215. (1) *Construction materials,* (a) from Texarkana, AR, to points in the U.S. (except AK and HI), and (2) *Materials and supplies* used in the manufacture of and/or the distribution of commodities named in (1) above, (b) from the destination territory named in (1) above, to Texarkana, AR. 216. *Buildings, building panels, building parts and materials, accessories, and supplies* used in the installation, erection, and construction of buildings, building panels, and building parts, from Annville, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI and WY. 217. *Pipe and pipe fittings,* from Greencastle, PA, to points in MI, OH, and NY. 218. (1)*Roofing, roofing materials, and siding,* from (a) Meridian, MS, to points in IL, IA, IN, KS, MO, OH, OK, and TX, and (b) at points in Pulaski County, AR, to points in NC, OH, SC, VA, and WV, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, from points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, to the origins named in (1) (a) and (b) above. 219. *Lumber,* between Thomson, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). 220. *Pipe, pipe fittings, hydrants, and valves,* from Bessemer and Birmingham, AL, to points in AR, MO, OK, and TX. 221. (1) *Equipment, materials, and supplies* used in the manufacture and distribution of the building materials listed in *Appendix VI to the Report in Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and (2) *wallboard, hardboard, insulation, padding, and cushioning materials, mulch, firewood and nonwoven fabrics,* from points in AL, AR, FL, GA, IL, IN, KS, LA, MI, MS, MO, NE, NC, OH, OK, SC, TN, TX, and WI, to Cloquet, MN. 222. *Iron and steel articles,* except pig iron and scrap metal, from Canfield, Martin's Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Benwood, Beechbottom, Wheeling and Follansbee, WV; and Allenport and Monessen, PA: to points in AR, AL, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OK, TN, and TX. 223. *Pipe, Pipe fittings, and accessories* for pipe and pipe fittings, from Birmingham, AL, to points in IA, KS, MO, and NE. 224. (A) (1) *Solar energy heating and cooling systems,* (2) *parts and accessories* used in the operation of the systems in (1) above, and (3) *wood burning heating appliances, irrigation systems, pipe tubing, light poles and light pole accessories,* from Valley, NE, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (B) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (A) above, from those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, to Valley, NE. 225. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation thereof and (4) *metal prefabricated structural components and panels,* from Spanish Forks, UT, to points in the U.S. (except AK ahd HI). 226. *Iron and steel articles,* from Houston, TX, and Muskogee, OK, to all points in the U.S. (except AK and HI). 227. (1) *Iron and steel articles,* and (2) *materials* used in the manufacture of the comodities in (1) above, (a) from Staunton, IL, and Hazelwood, MO, to points in the U.S. (except AK and HI), and (b) from points in OH, to Staunton, IL, and Hazelwood, MO. 228. (1) *Construction materials,* and (2) *materials and supplies* used in the manufacture and distribution of construction materials, between Russellville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). 229. *Iron and steel articles,* from East Chicago, IN, to points in IL, KY, MN, MO, TN, WI, and MS. 230. *Materials, equipment,and supplies* used in the manufacture and distribution of metal buildings and metal building parts, from points in OH, IL, and IN, to (a) Annville, PA: (b) Birmingham, AL: (c) Galesburg, IL, and (d) Laurinburg, NC. 231. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion of such commodities, from Hanford, CA, to points in WA, OR, ID, NV, UT, AZ, CO, MT, WY, ND, SD, NE, KS, OK, NM, and TX. Condition: Issuance of a certificate is subject ot prior or coincidental cancellation of Certificate No. 107295 and subs thereunder.

Note.—Applicant relies on operating econimies and traffic studies in lieu of shipper support.

MC–151224–F, filed October 9, 1980, previously noticed in the FR issue of November 4, 1980. Applicant: NORTHERN STEEL TRANSPORT, CO., a corporation, 6041 Benore Rd., Toledo, OH 43612. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. Transporting (1) *primary metal products, including galvanized* (except coating or other allied processing), and *fabricated metal products* (except ordnance), as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, KY, Lower Peninsula of MI, OH, TN, WV, PA on and west of U.S. Hwy 219, St. Louis, Jefferson, Franklin, Warren, Osage, Cole, Callaway, Audrain, Montgomery, Lincoln, St. Charles, Pike, Gasconade, Ste. Genevieve, St. Francois, Washington, Crawford, Phelps, Maries, Perry, Cape Girardeau, Bollinger, Madison, Iron, Reynolds, Dent, Monroe, Marion, and Ralls Counties, MO, and Chautauqua, Niagara, Cattaraugus, Orleans, Monroe, Genesee, Wyoming, Allegany, Steuben, Chemung, Schuyler, Tioga, Broome, Tompkins, Cortland, Cayuga, Yates, Livingston, Ontario, Seneca, Onondaga, and Oswego Counties, NY.

Note.—This republication corrects the territorial description.

Volume No. OP4–124

Decided: November 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 2017 (Sub-9F), filed November 3, 1980. Applicant: ALTO'S EXPRESS, INC., P.O. Box 45, Riverton, NJ 08077. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC.

MC 30837 (Sub-500F), filed November 3, 1980. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting: *trucks, truck tractors, and truck chassis* (in driveaway or truckaway service), between points in Wagnor County, OK, on the one hand, and, on the other, points in the U.S.

MC 42487 (Sub-1000F), filed October 31, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: W. R.

Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving Monticello, IA, as an off-route point in connection with carrier's otherwise authorized operations.

Note.—Applicant intends to tack the above authority with its existing authority.

MC 13777 (Sub-8F), filed November 3, 1980. Applicant: AAA TRANSPORT, INC., 2957 S.E. Rd., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *machinery, equipment, materials and supplies* used in connection with the production, construction, operation, repair, service, maintenance, dismantling and transmission of air, water, and sewage systems or installations, between those points in the U.S. in and east of MN, IA, MO, AR, TX, restricted to traffic originating at or destined to the facilities of The Clow Corp.

MC 105566 (Sub-236F), filed October 31, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and cooling systems, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Lennox Industries, Inc. and its subsidiaries.

MC 107107 (Sub-489F), filed October 31, 1980. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery business houses (except commodities in bulk), between those points in the U.S. in and west of TX, OK, KS, NE, ND, and SD, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, and SC.

MC 108937 (Sub-69F), filed October 31, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Select Magazines, Inc., at or near Franklin, KY as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 117786 (Sub-114F), filed October 21, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85014. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *alcoholic beverages* and *materials, equipment, and supplies* used in the manufacture and distribution of alcoholic beverages (except commodities in bulk), from points in Armstrong County, PA, Coffee County, TN, Dearborn County, IN, Franklin and Jefferson Counties, KY, and Fresno County, CA, to points in the U.S.

MC 120737 (Sub-3F), filed October 31, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic and cast iron products (except in bulk, in tank vehicles), between points in the U.S.

MC 123407 (Sub-650F), filed November 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *metal building products,* from Tulsa, OK, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123407 (Sub-652F), filed November 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). (1)(a) *pipe and connections and hardware for pipe* and (1)(b) *iron or steel manhole covers or frames,* from West Bend, WI, to points in the U.S. in and west of PA, MD, VA, NC, SC, GA, and FL (except AK and HI).

MC 129166 (Sub-3F), filed November 5, 1980. Applicant: RED WING TRANSPORTATION CORPORATION, 3154 North Service Dr., Red Wing, MN 55066. Representative: Robert L. Cope, 1730 M St., N.W., Washington, DC 20036. Transporting (1) *meats, meat products, and meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (2) *foodstuffs,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 141597 (Sub-13F), filed November 3, 1980. Applicant: RIVERSIDE TRUCK LINE, INC., 919—4th Ave., South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *meats, meat products, and meat byproducts, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Dubuque Packing Co., of Denison, IA.

MC 143607 (Sub-30F), filed October 31, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Leaver Brothers Company, of New York, NY.

MC 146646 (Sub-125F), filed October 31, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *mechanic creepers, and materials and supplies* used in the manufacture of mechanic creepers, (1) from Westville, NJ to Greenwood, MS, St. Paul, MN, W. Jordan, UT, Memphis, TN, and Atlanta, GA, and (2) from points in SC to Westville, NJ.

MC 149406 (Sub-5F), filed November 4, 1980. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *lumber, wood products, timbers, posts and poles,* (a) from the facilities of Timber Wholesalers, Inc., at or near Willmar, MN to points in WI, IL, IA, NE, SD, ND, MT, and WY, and (b) from points in WA, OR, ID, MT, ND, SD, and WY, to the facilities of Timber Wholesalers, Inc., at or near Willmar, MN.

MC 151087 (Sub-3F), filed November 3, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in

bulk), between points in the U.S., under continuing contract(s) with Land-O-Frost, Inc., of Lansing, IL.

MC 151407 (Sub-2F), filed November 3, 1980. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Burger King, Inc.

MC 152057 (Sub-1F), filed November 7, 1980. Applicant: LANDSMAN CAR CARRIER SERVICE, INC., 5601 Reisterstown Rd., Baltimore, MD 21215. Representative: Harold E. Mesirow, 1333 New Hampshire Ave., N.W., Washington, DC 20036. Transporting *motor vehicles*, in secondary movements, in truckaway service, between points in AR, DC, 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, restricted against movements of new motor vehicles having an immediate prior movements by water or rail.

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Decided: Nov. 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 123407 (Sub-649F), filed October 26, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, RT 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *new shipping devices*, from Neenah, WI, to points in the U.S. (except AK, HI, and WI).

MC 144926 (Sub-12F), filed October 28, 1980. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, 222 40th St., SW., Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *metal products, paper and paper products, lumber, lumber mill products, and construction materials*, (2) *gypsum, gypsum products, and joints compound*, and (3) *material and supplies* used in the application of the commodities in (2) above, between points in the U.S., under continuing contract(s) with Georgia-Pacific Corporation, of Portland, OR.

MC 151277 (Sub-1F), filed October 21, 1980. Applicant: COCHRAN TRANSPORTATION SERVICE, INC., 75 Grosvenor St., Athens, OH 45701. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Athens, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–128

Decided: Nov. 13, 1980.

By the Commission, Review Board Number 3, Members Parkers, Fortier and Hill.

MC 217 (Sub-26F), filed October 21, 1980. Applicant: POINT TRANSFER, INC., 5075 Navarre Rd., S.W., Canton, OH 44708. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *primary metal products*, including galvanized (except coating or other allied processing), *fabricated metal products* (except ordnance), and *machinery* (except electrical) as described in items 33, 34, and 35 of the Standard Transportation Commodity Code, respectively, between points in IL, IN, KY, MI, OH, PA, and WV.

MC 11207 (Sub-573F), filed October 31, 1980. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20014. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between the facilities of United States Gypsum Company at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 70267 (Sub-17F), filed November 3, 1980. Applicant: ECKERT TRUCKING, INC., 1090 East Springettsbury Ave., York, PA 17405. Representative: Norman T. Petow, 43 No. Duke St., York, PA 17401. Transporting (1) *refractory brick and refractory products*, from the facilities of America in West Manchester Township, York County, PA, to points in the U.S. (except AK), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, or authority held in MC 70267 Sub-14, which duplicates in full or in parts, the authority herein.

MC 97836 (Sub-28F), filed October 28, 1980. Applicant: SOLAR TRUCKING COMPANY, INC., 1 Charles St., Springfield, MA 01104. Representative: James M. Burns, 1382 Main St., Springfield, MA 01103. 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 points in CT and MA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written requests of Certificate of Registration in MC 97836 (Sub-2).

MC 108676 (Sub-162F), filed October 20, 1980. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., N.E., Knoxville, TN 37917. Representative: Michael S. Teets, (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with PPG Industries, Inc., at its subsidiaries, of Pittsburgh, PA.

MC 124887 (Sub-123F), filed October 30, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *rubber or miscellaneous plastic products* as described in Item 30 of the Standard Transportation Commodity Code and (2) *clay, concrete, glass or stone products* as described in Item 32 of the Standard Transportation Commodity Code and (3) *primary metal products* as described in Item 33 of the Standard Transportation Commodity Code and (4) *fabricated metal products* as described in Item 34 of the Standard Transportation Commodity Code, between points in Upshur County, WV; Coshocton and Tuscawaras Counties, OH; Manaska County, IA; Boone County, MO; Jefferson and Talladega Counties, AL; Boone County, KY, on the one hand, and, on the other, points in U.S. in and east of ND, SD, KS, NE, OK and TX.

MC 133566 (Sub-167F), filed October 2, 1980, previously noticed in the Federal Register issue of October 15, 1980, and republished this issue. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *printed matter, printing equipment, and globes*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or desticned to the facilities of Rand McNally & Company.

Note.—The propose of this republication is to correctly state the shipper's facility.

MC 142086 (Sub-2F), filed September 29, 1980, previously noticed in the **Federal Register** of October 16, 1980.Applicant: JERRY A JACOBS, d.b.a. JOY MOTOR FREIGHT, 1616 East 26th, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in King, Pierce, Mason, and Thurston Counties, WA, and points in the Seattle and Tacoma, WA Commercial Zones.

Note.—The purpose of this republication is to delete the restriction.

MC 143956 (Sub-19F), filed October 27, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. 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), from the facilities of Trojan Shippers Association in Miami County, OH, to points in the U.S. (except AK and HI).

MC 144966 (Sub-2F), filed November 4, 1980. Applicant: T.C.E. CORPORATION, P.O. Box 128, Hazlet, NJ 07730. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland, NJ 08904. Transporting *electrical goods,* and *materials, equipment and supplies* used in the manufacture and distribution of electrical goods (except commodities in bulk), between points in the U.S. under continuing contract(s) with Brownell Electric, Inc., of South Plainfield, NJ.

MC 150567 (Sub-10F), filed November 3, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave. Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1)(a) *lumber or wood products,* as described in Item 24 of the Standard Transportation Commodity Code and (1)(b) *building materials,* between points in the U.S., under continuing contract(s) with Hampton Lumber Sales Co., of Portland, OR.

MC 151416 (Sub-1), filed October 21, 1980. Applicant: GABION CONSTRUCTION, INC., Governors Lane Blvd., Box 43A, Williamsport, MD. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *gabions, and building materials,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Maccaferri Gabions, of Williamsport, MD.

MC 151477 (Sub-1F), filed October 31, 1980. Applicant: APOLLO FOREST TRANSPORTATION COMPANY, a corporation, 6843 Goodson Rd., P.O. Box 737, Union City, GA 30291. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Fl. Lenox Towers So., Atlanta, GA 30326. Transporting (1) *lumber and lumber products* (except in bulk) and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Apollo Forest Products of Union City, GA.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36766 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under Section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on December 16–17, 1980 in Room C5515, Seminar Room #6, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include the swearing in of Committee members, a review of OSHA activities as they relate to the construction industry, discussion of proposed OSHA program directives that are relevant to the construction industry, and a general discussion of construction safety and health matters.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N-3635, Washington, D.C. 20210, phone (202) 523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 20th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36716 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on December 18 and 19, 1980 at the Frances Perkins Department of Labor Building, Room C5515, Seminar Room #4, Third Street and Constitution Avenue, Northwest, Washington, D.C. The meetings will begin at 9:30 a.m.

The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the Administration of the Act.

The meeting agenda will include: reports on OSHA and NIOSH activities; planning for the NACOSH Subgroup on safety and health hazards associated with synfuel production; a discussion of the NIOSH reproductive hazards program; and a discussion of the Education Resource Centers.

Written data or views concerning these agends items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief

outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room, N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 20th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36717 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-9942]

American Motors Sales Corp., Overland Park, Kans.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 1980, in response to a worker petition received on July 25, 1980 which was filed on behalf of workers and former workers selling cars and jeeps at the Overland Park, Kansas Zone Office of the American Motors Sales Corporation.

The investigation revealed another petition (TA-W-9702) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA-W-9702), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36718 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,522]

American Motors Sales Corp., Minneapolis, Minn.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition received on August 25, 1980 which was filed on behalf of workers selling cars and jeeps at the Minneapolis, Minnesota Zone Office of the American Motors Sales Corporation.

The investigation revealed that another petition (TA-W-9698) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA-W-9696), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36719 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,575]

B&C Machine Co., Inc., Barberton, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on August 26, 1980 which was filed on behalf of workers and former workers producing automotive parts at B&C Machine Company, Incorporated, Barberton, Ohio.

On August 18, 1980, an investigation (TA-W-10,283) was initiated on behalf of the same group of workers as TA-W-10,575.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,283, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36720 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7868]

Goodyear Tire and Rubber Co., Gadsden, Alabama; Negative Determination Regarding Application for Reconsideration

By an application dated October 15, 1980, the petitioner 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 tire flaps at Goodyear's Gadsden, Alabama plant. The determination was published in the **Federal Register** on September 19, 1980 (45 FR 62589).

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 petitioner claims that the tire flaps produced at Goodyear's Gadsden, Alabama plant were integrated into the production of earthmover tires at Goodyear's Topeka, Kansas plant. Workers at Topeka producing earthmover tires were certified eligible for trade adjustment assistance, TA-W-6845.

The Department's review showed that the tire flap workers at Gadsden did not meet the increased import criterion of the Trade Act of 1974. U.S. imports of tire flaps are negligible.

The Department found that the degree of integration of Gadsden's tire flaps into the production of Goodyear's earthmover tires at Topeka was not significant. Therefore, the certification of Goodyear's earthmover tire workers could not serve as a basis for the certification of workers producing tire flaps. Virtually all of Goodyear's Gadsden plant tire flap production is for truck tires not earthmover tires.

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 14th day of November 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-36721 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

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 November 10–14, 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 or 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 criteria has not been met.

TA–W–10,636; Edward Corporation, Warren, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–10,607; Lustre Plating Company, Detroit, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–9493; Great Lakes Container Corp., Pontiac, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–9585; Moore Iron Works, Flint, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of material handling equipment are negligible.

TA–W–7806; James D. House Logging, Inc., Aberdeen, WA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of logs are negligible.

TA–W–7675; Simpson Industries, Inc., Simpson Mfg. Div., Litchfield, 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–7890; Detroit Engineering and Machine Co., 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–8031; Barley Erhart Co., Portland, 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–8092; Allison Manufacturing Co., Allentown, PA

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–8145; Coventry Pattern Ltd., Troy, 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–8172; L and I Sportswear Inc., New York, 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–8333; Dyna Quik Corp., Sterling Heights, 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

TA–W–8350; GEL, Inc., Livonia, 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–8408; Caro Products Inc., Caro, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of material handling containers are negligible.

TA–W–8591; C. Cowles & Company, New Haven, CT

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–8785; Equipment Manufacturing, Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of material handling containers are negligible.

TA–W–8903; Heublein, Inc., Spirits Group, Allen Park, MI

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–9561; Tygem Tool and Die Co., Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of tools and dies are negligible.

TA–W–9643; AM General Corp., Indianapolis, IN

Investigation revealed that criterion (3) has not been met. A substantial portion of the stampings produced by the Indianapolis facility supplied plants not covered by active adjustment assistance certifications.

TA–W–10,260; Jones and Laughlin Corp., Louisville, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless steel, sheet, and strip did not increase as required for certification.

TA–W–10,491; Natco Products Corp., West Warwick, RI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–10,666 & 10,679; Eastern Associated Coal Corp., Keystone #1 and Wharton #2—Mines #1, McDowel County, WV and Bald Knob, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–10,661; Falcon Industries, Inc., Warren, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–11,216; Great Lakes Carbon Corp., St. Louis, MO

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–8032; Lobdell-Emery Mfg. Co., Alma, 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–7833; Sealed Power Corp., St. Johns, 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–9235; Youngstown and Northern Railroad Co., Youngstown, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–9571; Air Monitoring, Inc., Royal Oak, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of exhaust emission testers are negligible.

TA–W–9280; Sewell Coal Company, Nettie, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–8881; Regent Manufacturing Corp., Hialeah, FL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of nightwear did not increase as required for certification.

Affirmative Determinations

TA–W–9183; Eaton Corp., Industrial Truck Division, Philadelphia, PA

With respect to workers in Department 910, the investigation revealed that criterion (3) has not been met. Workers in Department 910 are engaged in the final production operations on imported lift trucks and therefore cannot be adversely affected by increased import competition.

With respect to workers not employed in Department 910, a certification was issued applicable to all such workers on or after October 1, 1979.

TA–W–7946; Litton Ind., Inc., New Britain and Newington, CT

A certification was issued applicable to all workers at the subject firm separated on or after August 13, 1979.

TA–W–9051; Bethlehem Steel Corp., Sparrows Point, MD

With respect to workers producing pipe, a certification was issued applicable to all such workers separated on or after January 1, 1980.

With respect to workers producing plate, cold rolled sheet, galvanized sheet and rods, the investigation revealed that criterion (3) has not been met. A survey of customers of the facility revealed that increased imports did not contribute importantly to separations of workers producing such products at the Sparrows Point plant.

With respect to workers producing hot rolled sheet, wire and wire products and tin plate products, a determination will be issued at a future date.

TA–W–10,215; Crouse-Hinds Arrow Hart, Inc., Arrow Hart Div., Lewiston, ME

A certification was issued applicable to all workers at the subject firm separated on or after December 1, 1979.

TA–W–10,535; Robert-Hart, Inc., Keene, NH

A certification was issued applicable to all workers at the subject firm separated on or after May 5, 1979.

TA–W–7427; Lear Siegler, Inc., Morristown, TN

A certification was issued applicable to all workers at the subject firm separated on or after May 6, 1979.

TA–W–8173; Anwelt Corp., Fitchburg, MA

A certification was issued applicable to all workers at the subject firm separated on or after January 31, 1980.

I hereby certify that the aforementioned determinations were issued during the period November 10–14, 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: November 17, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistant.

[FR Doc. 80-36714 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a sustantial 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.

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.

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 17th 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
Beede Electrical Instrument Co. (workers)	Penacook	11/7/80	11/5/80	TA-W-11,661	Electrical meters.
Bethlehem Steel Corp., Printery Department (USWA).	Bethlehem, PA	11/6/80	11/2/80	TA-W-11,661	Printed forms.
Davis Heliarc (workers)	Columbus, OH	11/10/80	11/7/80	TA-W-11,663	Fabricate stainless steel.
Diane Handbags, Inc. (ILGPNW)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,664	Vinyl handbags.
Hoover Universal, Inc. (workers)	Georgetown, KY	11/10/80	11/3/80	TA-W-11,665	Volkswagon "Rabbit" seats.
Kenwood Knitting Mills Division of Donmoor (ACTWU).	Babylon, NY	11/10/80	11/5/80	TA-W-11,666	Children's knitted shirts.
Leader Metal Products, Inc. (workers)	Masury, OH	11/7/80	11/4/80	TA-W-11,667	Truck parts.
Printing Plant Legislative Service Bureau (workers).	Lansing MI	11/6/80	11/28/80	TA-W-11,668	Printing service for Michigan State government.
Regal Bag (ILGPNWU)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,669	Ladies' handbags.
Regal Bag S.W. (ILGPNWU)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,670	Ladies' handbags.
S.W.S. Silicones Corp. (USWA)	Adrain, MI	11/7/80	11/3/80	TA-W-11,671	Silicon products.
All Seasons (ILGWU)	Paterson, NJ	11/10/80	11/6/80	TA-W-11,672	Ladies' coats.
Automated Automation, Inc. (workers)	Noblesville, TN	11/10/80	11/24/80	TA-W-11,673	Spring and wire form detangling and feeding systems.
Baron Fashion (ILGWU)	W. Paterson, NJ	11/10/80	11/6/80	TA-W-11,674	Ladies' coats.
Clover Fashions (company)	Newark, NJ	11/10/80	11/6/80	TA-W-11,675	Ladies' outerwear.
E & M Coat (ILGWU)	Paterson, NJ	11/10/80	11/6/80	TA-W-11,676	Ladies' coats.
Erie Mining Co. (USWA)	Hoyt Lakes, MN	11/10/80	11/5/80	TA-W-11,677	Iron ore pellets.
H & D (ILGWU)	W. Paterson, NJ	11/10/80	11/6/80	TA-W-11,678	Ladies' coats.
Lebanon Garment Co. (company)	Lebanon, TN	11/13/80	11/10/80	TA-W-11,679	Men's and boy's work pants.
Marine Optical Inc. (workers)	Brockton, MA	11/10/80	11/7/80	TA-W-11,680	Eyeglass frames.
Spatz Industries. Inc. (company)	Atlanta, GA	11/10/80	11/3/80	TA-W-11,681	Men's three piece suits, pants, jackets.
AAA Punch and Die Products, Inc. (workers)	Ferndale, MI	11/12/80	11/6/80	TA-W-11,682	Punches and die buttons.
Alpine H & S, Inc. (workers)	Bellingham, WA	11/10/80	11/7/80	TA-W-11,683	Contract logging for other firms.
Char-lin Handbags, Inc.	New Haven, CT	11/10/80	11/6/80	TA-W-11,684	Vinyl and fabric, women's handbags.
Lawrence Manufacturing Co., Inc. (workers)	Walnut Ridge, AR	11/12/80	11/8/80	TA-W-11,685	Ladies' sportswear and dresses.
Leslie Fashions, Inc. (workers)	Newark, NJ	11/10/80	11/4/80	TA-W-11,686	Ladies' rain wear.
Lord's Caseware (Teamsters)	Porter, IN	11/10/80	11/7/80	TA-W-11,687	Brief cases.
Marion Power Shovel (workers)	Marion, OH	11/12/80	11/10/80	TA-W-11,688	Mining equipment.
N.E.B. Jean & Sportswear Co., Inc. (ILGWU)	Cambridge, MD	11/12/80	11/10/80	TA-W-11,689	Ladies' dresses and sportswear.
Sam Brutin & Co. (company)	Paterson, NJ	11/12/80	11/5/80	TA-W-11,690	Ladies' outerwear.
U.S. Steel Corp., American Bridge Division (Iron Workers).	Fairfield, AL	11/15/80	11/9/80	TA-W-11,691	Fabricated structural steel.
Armco, Inc. (USWA)	Ashland, KY	11/10/80	11/6/80	TA-W-11,692	Carbon flat rolled steel products.
Boeing Vertol Co., Service Transportation (UAW).	Philadelphia, PA	11/10/80	11/5/80	TA-W-11,693	Rail cars.
Bush Hog-Continental Gin, Division of Bush Hog Agricultrual Equipment Co. (workers).	Prattville, AL	11/10/80	11/6/80	TA-W-11,694	Parts and equipment.,
Fenway Manufacturing Co. (workers)	Lowell, MA	11/12/80	11/4/80	TA-W-11,695	Men's and ladies' outerwear.
G.T.E. Products Corp. (UE)	Emporium, PA	11/12/80	11/10/80	TA-W-11,696	Receiving tubes.
Lone Star Industries (UCLCW)	St. Stephens, AL	11/12/80	11/7/80	TA-W-11,697	Raw materials for cement.
McGregor Sportswear, Coalport plant (workers).	Coalport, PA	11/12/80	11/10/80	TA-W-11,698	Men's outerwear jackets.
Mighty Mac, Inc. (workers)	Gloucester, MA	11/10/80	11/7/80	TA-W-11,699	Jackets and outerwear.
Monk Fur Co. Inc. (FLMWU)	Jim Thorpe, PA	11/10/80	11/6/80	TA-W-11,700	Dressing of rabbit furs.
Reid Meredith (company)	Lawrence, MA	11/10/80	11/5/80	TA-W-11,701	Women's and men's hairpieces.
Al Tech Specialty	Watervliet, NY	11/12/80	11/10/80	TA-W-11,702	Stainless and tool steel.
AMF Wheel Goods Div., Warehouse (USWA)	Little Rock, AR	11/13/80	11/10/80	TA-W-11,703	Light weight bicycles.
AMF Wheel Goods Div. (USWA)	Little Rock, AR	11/13/80	11/10/80	TA-W-11,704	Light weight bicycles.
General Electric Co., Photo Lamp Dept. (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,705	Christmas, holiday lights, photo lamps and bulbs.
General Electric Co., Miniature Lamp (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,706	Light bulbs and filament for different types of lamps.
General Elkectric Co., Pitney Glass (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,707	Light bulbs for auto industries painting for other types of light bulbs.
General Electric Co., Willoughby Quartz Plant (IUE).	Willoughby, OH	11/13/80	11/10/80	TA-W-11,708	Ceramic lamp tubes and quartz products.
General Electric Co., Cleveland Equipment Plant (IUE).	Cleveland, OH	11/13/80	11/10/80	TA-W-11,709	Parts and assembles machines for manufacturing light bulbs.
General Electric Co., Fluorescent Systems Dept. (IUE).	Cleveland, OH	11/13/80	11/10/80	TA-W-11,710	Pilot operation, engineering ideas for fluorescent lamps.
Vanscot Industries, Inc. (workers)	Clarence, NY	11/13/80	11/11/80	TA-W-11,711	Honing Stones.
Chippewa Shoe Co. (UFCW)	Chippewa Falls, WI	11/13/80	11/12/80	TA-W-11,712	Men's work shoes.

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities Grant Program Announcement 1981-1982

Contents—Introduction to the Endowment

Introduction to the Endowment

The National Endowment for the Humanities is an independent Federal grant-making agency created in 1965 by Congress to support projects of research, education and public activity in the humanities.

The establishment of the agency resulted from an increased awareness that it is appropriate and necessary for the Federal government to complement and assist the support for the humanities provided by state and local governments and private sources.

In it authorizing act, Congress gave these reasons for founding the Endowment:

- The encouragement and support of national progress and scholarship in the humanities is an appropriate matter for Federal concern.
- A high civilization must not limit its efforts to science and technology alone, but must give full value and support to man's scholarly and cultural activity, in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.
- Democracy demands wisdom and vision in its citizens and it must therefore foster and support a form of education designed to make men masters of their technology and not its unthinking servant.
- It is necessary and appropriate for the Federal government to assist humanities programs conducted by local and state organizations and by private agencies.
- It is appropriate for the Federal government to sustain a climate enouraging freedom of thought, imagination, and inquiry and the material conditions facilitating the release of creative talent in the humanities.
- The world leadership which has come to the United States must be founded upon worldwide respect for this nation's high qualities as a leader in the realm of ideas and of the spirit.
- These broad purposes have been translated into four specific Endowment goals:

—To promote the public understanding of the humanities, and of their value in thinking about the current conditions of national life;

—To improve the quality of teaching in the humanities and its responsiveness to new intellectual currents and changing social concerns;

—To strengthen the scholarly foundation for humanistic study, and to support research activity which enriches the life of the mind in America; and

—To nurture the future well-being of those essential institutional and human resources which make possible the study of the humanities.

Congress stated that the term "humanities" includes, but is not limited to, the study of the following:

Language; linguistics; literature; history; jurisprudence; philosophy; archaeology; comparative religion; ethics; the history, criticism and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanisitic methods; and the study and application of the humanities to the human environment, with particular attention to the relevance of the humanities to the current conditions of national life.

Congress established the endowment as a part of the National Foundation on the Arts and the Humanities. The foundation also includes the National Endowment for the Arts and the Federal Council on the Arts and the Humanities. Each Endowment is directed by a Chairman appointed by the President for a four-year term, subject to Senate confirmation. The two Endowments are autonomous and have separate budgets and staffs.

The Federal Council is composed of 14 senior government officials including the Chairmen of the Endowments and is concerned with information exchange among government agencies which fund cultural programs.

The Chairman of NEH is advised by the National Council on the Humanities, a body of 26 distinguished citizens appointed by the President with the advice and consent of the Senate. The Chariman of the Endowment is presiding officer of the Council.

The Endowment is accountable to congress and is dependent for its continued legal existence and authority to dispense funds on periodic congressional reauthorization. This takes place at intervals of approximately five years. In addition, an appropriations bill is adopted annually. The first appropriation for program support, in Fiscal Year 1966, was $2.5 million (plus $3 million to match private donations). In Fiscal 1980, the NEH appropriation for programs was $100.3 million, plus $11.4 million in matching funds and $27 million for the Challenge Grants program.

Who is Eligible for Endowment Support

The Endowment welcomes applications for support from individuals and nonprofit institutions and organizations engaged in projects involving the humanities. Applicants may be United States citizens or nationals (such as native residents of American Samoa), or foreign nationals who have been living in the United States or its territories for at least three years at the time of application.

Equal Opportunity

The Code of Federal Regulations, Title 45, Part 1110, which effectuates provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975 provide that:

Under the above-cited statutes, the National Endowment for the Humanities is responsible for implementing compliance with and enforcement of public laws prohibiting discrimination because of race, color, national origin, sex, handicap and age in programs and activities receiving Federal assistance from the National Endowment for the Humanities.

Any person who believes he or she has been discriminated against in any program, activity or facility or desires

further information regarding Federal assistance should write immediately to: Director, Office of Equal Opportunity, National Endowment for the Humanities, 806 15th Street, NW., M.S. 256, Washington, D.C. 20506.

Areas Not Funded

The Endowment does not provide support for:

Predoctoral fellowships, except insofar as they may be integral parts of a broader program and requested by the institution undertaking such a program;

Research or study undertaken in pursuit of an academic degree, or

Individual requests for travel to professional meetings. (Requests for aid in traveling abroad to international meetings should be addressed to the American Council of Learned Societies, which has a small grant from the Endowment for that purpose.)

The following categories will be considered only under the Challenge Grants Program:

Construction or restoration costs, except for limited amounts necessary to carry out other purposes of an application;

Museum or library acquisitions, except for limited amounts needed to achieve other purposes of an application;

Costs of permanent equipment which is not essential to complete a broader program or project.

Support for Projects in the Arts

The Endowment does not offer support for creative, original works in the arts or for performance or training in the arts. Historical, theoretical, and critical studies in the arts are, however, eligible for Endowment support.

Projects dealing with appreciation of the arts may also be suitable for support if they clearly relate art appreciation to other fields of the humanities rather than to fields of the creative and performing arts.

A project designed to develop a broader perspective of a culture by examining the values reflected in its arts might qualify for support while a project focusing on the arts as such probably would not.

Federal support for the creative and performing arts is the responsibility of the National Endowment for the Arts.

The Endowment's Divisions

The Endowment's operations are primarily carried out through its six divisions.

The *Division of Education Programs* offers support for projects which strengthen the nation's teaching potential in the humanities. Programs are conducted for elementary and secondary education and for higher education, including continuing education.

The *Division of Fellowships and Seminars* supports individuals in their work as scholars, teachers, and interpreters of the humanities. These awards are designed to enable individual scholars, teachers and practitioners of the professions to undertake full-time study or research for periods ranging from two months to one year.

The *Division of Public Programs* supports projects which draw upon the resources of cultural institutions and the electronic media to involve the general public in the work of the humanities. Typical projects include temporary and permanent museum exhibits which interpret the social and cultural setting of works of art; programs which explain the significance of historic sites; activities which encourage greater public use of the humanities resources of libraries, and films and television and radio programming on themes in literature, anthropology, languages, and history.

The *Division of Research Programs* supports scholarship in the humanities and conservation of essential resources for such scholarship. Many of its grants are for long-term projects involving several scholars and result in publications.

The *Division of Special Programs* through its Youth Programs, Special Projects and Program Development offices seeks to reach constituents not traditionally involved in humanities activities, to test innovative programming models, to fund efforts which cut across other categories of NEH support, and to develop programs in areas of interest to the Endowment. The program in Science, Technology and Human Values not only underscores the NEH's interest in this area of inquiry, but enables the Endowment to cooperate in the funding of activities with the National Science Foundation and other Federal agencies. The Challenge Grants Program, by requiring matching funds from non-Federal sources, stimulates giving for the support and strengthening of humanities resources.

The *Division of State Programs* makes annual grants to humanities committees in the 50 states, Puerto Rico, and the District of Columbia. The committees, in turn, regrant these funds to provide humanities programs at the local level, usually for the out-of-school adult public. Groups and individuals interested in receiving funds under this program should apply to state committees directly.

In addition to awards made through its six divisions, the Endowment, through the Office of Planning and Policy Assessment, supports studies and surveys designed to collect and analyze information about the problems, status, and trends of important sectors of humanistic activity.

How to Apply

If you plan to seek a grant from the endowment, you should request guidelines and application forms for the program in which you are interested. Contact the Public Affairs Office, Mail Stop 351, National endowment for the Humanities, 806 15th St. NW., Washington, D.C. 20506.

Applicants are urged to consult with NEH staff members in the early stages of developing their proposals. Names and telephone numbers of senior staff members are listed on page 40 of this booklet. Staff members are glad to react to preliminary drafts and to suggest questions which may be raised by panelists and reviewers. Many applicants who are not funded when they submit their first proposals often resubmit them. Staff members provide comments made by reviewers and panelists as a basis for revision, and a strengthened proposal often is funded after resubmission.

Program deadlines are listed on pages 31–35. If you plan to begin a project by a particular date you should submit your proposal well in advance, in order to ensure against possible delays in the processing or announcing of grants.

The Grant Review Process

NEH awards grants for projects in the humanities on a competitive basis. A careful review of every application is undertaken to insure that grants are made impartially on the basis of individual merit. The review process also helps identify those projects most likely to make a significant contribution to the humanities using the Endowment's limited grant funds.

While there are variations in the review process among the six NEH divisions (Research, Fellowships, Education, Public Programs, Special Programs, and State Programs), the basic procedure for evaluation of applications is generally the same.

The procedure follows four steps: 1. Receipt of the application by the NEH; 2. review by panelists and, in many cases, by outside specialist; 3. consideration by the National Council on the Humanities; 4. final action by the NEH Chairman.

Receipt by NEH

When a grant application is received by an NEH division on or before the program deadline, it is assigned a number and reviewed by program staff. Staff review assures that all necessary information has been supplied by the applicant and that general eligibility requirements have been met. This review also gives the staff the opportunity to determine the areas of expertise required of panelists in the next stage of the application review process.

In many NEH programs, submission of preliminary applications, narratives, or inquiries well in advance of program deadlines are encouraged so that Endowment staff can advise prospective applicants of their project's eligibility and competitiveness.

Review by Panelists

All six NEH divisions use *ad hoc* panels for review of grant applications within their programs. The divisions are responsible for selecting, organizing, and conducting these panels, which serve as a group for only one application round.

Panelists are selected from a computerized databank of over 20,000 names of qualified scholars, teachers, administrators, librarians, archivists, curators, media producers, writers, and numerous other professionals in the humanities and members of the public from outside the Federal government.

Panels are composed of four to a dozen or more members who are familiar with the scholarly or professional field of the applications under consideration, or with the types of institutions, organizations, or groups involved in the proposed project. Over the course of a year, Endowment panels have memberships reflecting the pluralistic nature of our nation's institutions and population.

Panelists are expected to read the applications assigned to them and to prepare written evaluations before the panel meeting at the Endowment offices in Washington, D.C. Each one- or two-day meeting is chaired by a senior NEH staff member whose function is essentially to provide information and clarify Endowment policies and procedures. At the meeting, the panel members discuss the individual an relative merits of each proposal and make a recommendation about funding, which is forwarded to the National Council on the Humanities.

In some cases, the panel may suggest deferral of an application pending further information, or it may recomment a small grant for additional development of the proposal before giving consideration to the principal request.

Many applications, especially those that are extensive in scope or which deal with a specialized subject matter, are sent to outside specialists who volunteer to provide a written commentary. These individual reviewers are selected from the endowment's computerized databank, from specialized directories, and, in some programs, from names submitted by the applicant. They are chosen on the basis of their expertise in the specific subject, profession, type of institution, or group involved in the proposal. Their evaluations of an application are provided by NEH staff to the National Council and, in some programs, to the panel reviewing that application.

Consideration by Council

The National Council is composed of 26 men and women who are appointed by the President with the consent of the Senate to advise the Chairman of the Endowment on policy and program matters.

The full Council meets four times annually (February, May, August, and November) to consider grant applications. On the first day of the two-day session, the Council divides into committees which review applications in individual divisions. During their review, Council members, who have read the supporting materials in advance of the meeting, consider the applications carefully, paying particular attention to the evaluations submitted by review panels and outside specialists.

On the second day, the full council meets to consolidate the committee reviews into a set of funding recommendations to the NEH Chairman for all applications in that session. IN giving their advice, the Council members act as representatives of the public and as humanities generalists. They are primarily concerned with the fairness of the review process and the priorities, emphasis, and pattern of Endowment funding.

The Council recommendtion may differ from that of panelists or other reviewers, though this occurs infrequently. The Council may also call for deferral of an application pending refinements or receipt of further information.

Final Action

After considering the recommendations or reviewers, panelists, staff, and the National Council The Chairman of the endowment makes the final funding decision, as required by law.

Because of the large number of good proposals received by the endowment, it is seldom possible to provide support for all those that are recommended by panels or specialist reviewers. Many proposals demonstrate a potential for strength but may need further work on critical elements. Submission of a revised proposal is always possible, and failure to gain support in one application round does not prejudice a proposal's chances for reconsideration. At the applican't request, staff of each program area will provide information on the comments of outside reviewers and panels in order to held the applicant determine whether or not to submit a revised proposal.

Division of Education Programs

The Division of Education Programs supports projects and programs through which institutions endeavor to renew and strengthen the impact of teaching in the humanities in elementary and secondary schools and in liberal arts, vocational, and professional curricula in higher education.

Endowment-sponsored projects address the humanities content of education, and are thus distinguished from the efforts of other agencies and foundations that support projects focusing on educational theory, tests and measurements, cognitive psychology, student assistance, or the administration of education systems.

Endowment support typically makes possible two types of activity:

1. the sharing of knowledge about the humanities with teachers or faculty members through extended workshops and institutes and
2. the development of new humanities courses or materials for courses.

There are three divisional programs, one for elementary and secondary school projects and two for projects in higher education, including graduate and continuing education.

Elementary and Secondary Education Grants

This program offers support for projects designed to strengthen the teaching of the humanities in elementary and secondary schools. Eligible projects include the development of curricula and curricular materials, extended teacher institutes, and demonstration projects that will have regional or national impact on the teaching of the humanities.

Extended teacher institutes bring together teachers to learn about new developments in the humanities and to plan curricula to incorporate these

developments. For example, an institute might concentrate on ways to use local history, local buildings, and local events as a means to bring students knowledge as well as content of history.

Grants are also made to create improved classroom materials)e.g., in foreign languages and literatures); or to establish relationships between the schools and nearby museums or other cultural institutions; or to develop curricula in newer fields such as studies of comparative cultures or the study of ethical systems.

Elementary and secondary education grants typically involve cooperation between schools and college or university faculty and almost always involve both teacher training and curriculum development.

Higher Education/Individual Institution Grants

The intent of the three grant categories in this program is to improve the teaching of the humanities within particular institutions of higher education including community colleges and other two-year institutions, four- and five-year colleges, technical institutes, and universities. The three categories represent stages in the improvement of teaching in the humanities. Both the development of new humanities courses and the modification of existing programs may provide the focus for an application.

Consultant Grants. These grants provide to an institution the services of a person selected from the National Board of Consultants, an NEH register of outstanding reviewers and project directors who are familiar with all types of educational institutions and issues involved in the teaching of the humanities. Such a consultant works with the college of university for as long as two years to help with whatever problem the applicant has identified.

Pilot Grants. With these grants institutions undertake the initial implementation and evaluation of new courses in the humanities. These new courses can be in any field of the humanities or a combination of them; they can be for students at the undergraduate or graduate level; they can be for programs of continuing education. Pilot Grants may not exceed $50,000 or extend beyond two years.

Implementation Grants. These grants help colleges and universities introduce new programs. Funds may be used to develop a specific area of the humanities curriculum or revisions of the humanities curriculum broadly. Institutions applying for Implementation Grants are expected to have undertaken previously the study, planning, and testing of the new program and are expected to give evidence of strong institutional commitment to continuing the program after the grant ends. The applicant must already have received the necessary approval for the courses or program from faculty committees, administrative offices, and governing boards.

The Individual Institution Grants programs seek to help an institution help itself. The Endowment offers no model of what is correct or useful or of what is needed; instead, these grants enable institutions to determine these matters for themselves and to move ahead at the tempo that seems best for them.

Higher Education/Regional and National Grants

Regional and National Grants encourage the development and testing of imaginative approaches by supporting humanities institutes and exemplary curiculum development or curriculum materials projects. These grants differ from grants to individual institutions in that they focus on the development of models and materials for widespread use.

Humanities institutes bring together at a host institution faculty from a number of colleges and universities to participate in seminars and joint curriculum planning. The emphasis of these institutes is placed on the collaborative development and analysis of humanities courses. In this way, the institutes differ from the Endowment's Summer Seminars program (see the section on the Division of Fellowships), which is designed to further the individual scholarly growth of the faculty participants.

The program supports two other kinds of activities dealing with the dissemination of curriculum or curricular materials. First, it supports the development, testing, and dissemination of model activities that address a particular need in the teaching of the humanities which can be expected to have an impact on the curriculum in educational institutions throughout the country.

Grants typically are planned and implemented by small groups of faculty who need not be at the same institution. Projects may include programs which promote interdisciplinary cooperative teaching in traditional fields of study, such as history, or on timely topics in which the combined insights of disciplines in the humanities may add new depth and dimension, such as medical ethics. A project may seek to develop curriculum programs in new fields of study or in uncommonly taught subjects.

Development of programs may be accomplished through the sharing of resources among colleges or universities or through collaboration among them and cultural institutions such as libraries and museums.

The program also supports the creation of curriculum materials in print and other media form. Applicants must stress the need for such teaching materials, the necessity for producing them in this form, and the competency, both scholarly and technical, to carry out such a project.

These projects may vary in size and scope, but usually last from one to three years.

The Regional and National Grants program also offers support for a few curriculum conferences on nationally significant topics each year. (Support for conferences related to scholarly research is available through the Endowment's Division of Research Programs.)

**For additional information, see the Education Division Guidelines available from the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., N.W., Washington, D.C. 20506. You may also wish to contact the staff members listed at the end of this Announcement.*

Division of Fellowships and Seminars

The Division of Fellowships and Seminars makes awards to help support individuals in their work as scholars, teachers, and interpreters of the humanities. The Division also supports humanities seminars for members of the non-teaching professions which may be productively related to their carreer work. These programs provide periods of uninterrupted time, ranging from one to 12 months, for humanistic study, research, and writing.

The Division's seven programs serve individuals of widely varying interests, backgrounds, and circumstances: Established scholars writing books; younger scholars in the early years of their careers; interpretive writers both outside and inside academia; faculty members in two-year, four-year, and five-year colleges whose interests are focused primarily upon their teaching; and persons in the non-teaching professions, such as doctors, lawyers, and journalists.

The kinds of projects supported through the Division's programs are as diverse as the individuals served: study and research directed toward publication, personal study projects without publication in view, or projects to enhance an applicant's teaching.

Applications are submitted directly by individuals, whether to the Endowment or to seminar directors, and stipends are

awarded and paid directly to individuals. Support is offered only for study not related to pursuit of a degree, although applicants need not have advanced degrees. Recipients are required to devote full time to their fellowship projects.

The Division's programs are all competitive. Over 9,000 persons apply for some 2,600 fellowship and seminar opportunities each year. Over 4,000 of these apply directly to the Endowment; the others apply to seminar directors or to the centers for advanced study. The application-award ratio ranges from nearly nine to one for Fellowships for Independent Study and Research to a little over two to one in the Summer Seminar program. Thus, although many opportunities are available, there are always much larger numbers of individuals well qualified to use them effectively.

Kinds of Fellowships

The Division offers fellowships for either independent study or residential, collegial study. Both kinds of awards are offered either for six to 12 months of tenure or for one or two months of summer study. Independent study opportunities are offered through three programs:

- Fellowships for Independent Study and Research
- Fellowships for College Teachers
- Summer Stipends

Opportunities for collegial or seminar study are offered through four programs:

- Summer Seminars
- Residential Fellowships for College Teachers
- Fellowships at Centers for Advanced Study
- Fellowships and Seminars for the Professions

Fellowships for Independent Sudy and Research

These ae fellowships for scholars and others who have made significant contributions to humanistic thought and knowledge, or who stand at the beginning of careers that promise such contributions. They provide up to $22,000 for 12 months of tenure or up to $11,000 for six. Senior scholars often use their awards to make up the difference between sabbaticals and full salary so that they have a full year free for their work. About ten percent of these fellowships go to non-academic applicants.

Fellowships for College Teachers

These fellowships are intended for teachers in undergraduate colleges and universities and in two-year colleges, especially teachers who have heavy teaching loads and limited means for research. The purpose of this program is to extend opportunities to these teachers to pursue full-time study and research that will enable them to develop their knowledge and understanding of their fields. Work proposed may range from general study connected with their courses to specialized research that bears only indirectly on their teaching, whatever will serve best to enhance their abilities as teachers and interpreters of the humanities.

Summer Stipends

Summer Stipends provide $2,500 for two months of summer study and research. Their purpose is to free college and university teachers from the necessity of summer employment and to provide support for travel and other research expenses so that they can devote this period to concentrated study. Because of a ceiling of three applications from any single institution, these awards are broadly distributed and a large proportion go to teachers in small colleges and other primarily undergraduate institutions. This enables these teachers to develop or continue their research interests and provides a stepping stone to more ambitious endeavors.

Summer Seminars

This program also provides $2,500 for two months of summer study and research, but it is limited to teachers at undergraduate and two-year colleges. Recipients participate in seminars directed by distinguished scholars at institutions with libraries suitable for advanced study. Approximately 120 seminars of 12 participants are offered each summer in all disciplines of the humanities and humanistic social sciences, so that 1,400 college teachers attend these seminars yearly. The basic purpose of this program is to provide opportunity for intellectual revitalization to teachers who have limited time to pursue specialized study.

Residential Fellowships for College Teachers

Analogous to Summer Seminars, this program provides academic-year fellowships of up to $20,000 to teachers in two-year and undergraduate colleges, enabling them to participate in seminars directed by distinguished scholars at designated universities. In addition to participation in the seminar, Fellows pursue personal study or research projects of their own choosing. Seven seminars are offered each year, two of them open only to teachers in two-year colleges. Applicants see these fellowships as opportunities both for wide-ranging programs of personal study, and for specialized research.

Fellowships at Centers for Advanced Study

In this program, the Endowment provides funds to centers for advanced study, research libraries, and other equivalent institutions independent of universities to enable them to offer fellowships for study and research in the humanities. The fellowships offer unique opportunities for humanists to pursue their own studies and at the same time to benefit from stimulating interaction with colleagues in similar and different fields. These fellowships may run from six to 12 months. They are awarded and administered by the centers.

Seminars and Fellowships for the Professions

The Division offers summer seminars of two kinds for the professions: Seminars for practitioners and seminars for professional-school teachers.

Seminars for Practitioners. These seminars bring together practitioners in professions outside of teaching for one month of full-time study in seminars directed by distinguished humanists. Their purpose is to advance public understanding and use of the humanities in clarifying fundamental values and goals by giving participants opportunities to stand back from their work and explore a wide range of issues. Seminars are being offered for business executives; labor leaders; journalists; lawyers and judges; physicians, nurses, and other health care practitioners; public administrators; and school administrators. Each seminar enrolls 12 to 15 participants. Stipends approximate government *per diem* allowances: $1,200 plus a travel allowance.

Seminars for Professional-School Teachers. These provide opportunities to teachers in law schools and in schools of medicine and other schools of health care to study in four- to six-week seminars directed by distinguished scholars. These seminars enable teachers to sharpen their understanding of the humanistic foundations of their fields and improve their ability to convey these to their students and colleagues. Three seminars for law-school teachers and five for teachers in schools of medicine and health care, each for 12 participants, were offered in 1980. The stipend rate is the same as in the Summer Seminar program.

Through its Professions Program, the Division also supports two fellowships programs for journalists: 12 nine-month academic year fellowships are offered annually for study in residence at

Stanford University and 12 at the University of Michigan. Fellows participate in a common seminar and also pursue programs of individual study in the humanities. The stipend is $18,000.

**Information and application forms pertaining to each of the programs described above may be obtained from the Public Affairs Office, Mail Stop 351, NEH, 806 15th Street, NW., Washington, D.C. 20506. You may also wish to contact program officers of the Division whose names are listed at the end of this Announcement.*

Division of Public Programs

The Division of Public Programs provides support for activities in the humanities for the adult public conducted through museums, historical organizations, libraries, television, radio and film.

Grants are made for specific projects involving humanities themes and resources, not for general organizational support or for activities which are a part of the ongoing services of an institution. Typical formats for NEH-funded projects include interpretive exhibits (either temporary or permanent) in museums, reading and discussion programs in libraries, and the production of individual programs or multi-part series for television or radio broadcast.

Three program areas are included in the Division. They are Humanities Projects in Museums and Historical Organizations; Humanities Projects in Media; and Humanities Projects in Libraries. Each program receives grant applications twice a year, in July and January. Grants are available both for planning and for carrying out project activities, with the normal grant period being about a year and a half. Grantees are expected to share part of the cost of a project, although there is no strict formula for matching. Most grantees contribute at least 20 percent of project costs, either in cash or in kind.

Grants may be awarded only to non-profit organizations, not to individuals. Typical expenses reimbursable through NEH grants include the cost of project administration, consultants, speakers, travel, supplies, and print materials. With few exceptions, grant funds may not be used to buy equipment, to buy or to renovate facilities, or to acquire books, art objects or other resources for cultural institutions.

Although Public Programs grants are administered through categories which reflect institutional capabilities (media, museums, libraries), the criteria on which proposals are evaluated depend mainly on the strength of the project theme, its appeal to the audience it is expected to reach, the presence of well-qualified people among project staff and consultants, and the reasonableness of the proposed budget. Project themes or topics can come from any discipline of the humanities, or can involve interdisciplinary collaboration. Scholars in the humanities need not be the only experts involved in the project; in fact, a successful program usually calls for the participation of people from many different backgrounds.

Humanities Projects in Museums and Historical Organizations

The grants program for Humanities Projects in Museums and Historical Organizations funds activities that convey ideas and stimulate learning through the use of artifacts, documents, objects of art, specimens or living collections. Museums, historical organizations, historic sites and other similar cultural institutions can draw upon their own holdings or other collections and resources to develop programs which interpret humanities themes for the broad general public.

Among the categories of support are:

Temporary Interpretive Projects, such as short-term exhibitions and educational programs related to exhibitions. Support is available both for planning and for implementing such projects.

Permanent Interpretive Projects, including the reinstallation and updating of the interpretation of permanent collections. Both planning and implementation support is available. Permanent interpretive projects can also include sequential courses relating to the organization's collections, as well as the sharing of seldom exhibited or stored collections with other institutions.

Self-Study Planning Grants, provide assistance in developing or evaluating long-term public humanities programming goals of museums and historical organizations.

Humanities Projects in Media

The Media Program provides support for innovative television, radio and cable projects. Unlike other organizations or funding sources with general interest in production support or the development of media technology, the Endowment's funding in this area is solely concerned with project ideas which make substantial use of research and information in the humanities and which focus on subjects and issues that are central to the humanities. Through such projects, the program seeks to stimulate understanding of the continuity and diversity of our cultural heritage as a people.

The Program can assist in the development of humanities projects by providing support for planning, scripting and/or production.

Planning Grants. The purpose of planning grants is to encourage the preparation of innovative projects in areas of the humanities where relatively little has been presented to the public. These grants usually result in program outlines or treatments.

Script-Writing Grants. These grants are to support the actual writing of one or more scripts or, in the case of certain documentaries, detailed program treatments.

Production Grants. These grants can help support the production costs of a single program, a pilot program, or a series.

All applications for production must include a basic public information or promotion plan. Production proposals should include plans to reach groups in the population which traditionally are not reached.

Humanities Projects in Libraries

The Program of Humanities Projects in Libraries welcomes proposals that explore ways to spark the public's interest in the humanities resources of libraries and stimulate their use through thematic programs, exhibits, media, publications, and other library activities.

To be eligible for funding, a project must:

1. Focus on the humanities or use the resources of the humanities to examine a public issue or topic.
2. Include public participation in project activities.
3. Involve the use of the humanities resources unique to a library—its books, services, and staff, with a view to continued and increased use of these library resources once the project is completed.
4. Include knowledgeable and appropriate resources people in the planning and implementation of the program, such as librarians familiar with the library's resources and services, subject specialists who have training and experience in the humanities disciplines, technical experts for specific aspects of the project and community representatives form the project's defined audience.
5. Include plans for a detailed evaluation.

Applicants are advised to confer with program staff before submitting a grant application, because experience has shown that this more often leads to submission of an eligible proposal.

**For more detailed information, you may request the guidelines for each of the Division's programs from the Public*

Affairs Office, Mail Stop 351, NEH, 806 15th Street, NW., Washington, D.C. 20506. You may wish to contact program officers of the Division whose names are listed in the directory at the end of this Announcement.

Division of Research Programs

The Division of Research Programs supports activities which concentrate on the support of scholarship in the humanities and the conservation of essential facilities and resources for such scholarship. Most of the awards made through the Division are for long-range, multi-year projects involving several scholars. A very high proportion of these grants leads to published products, often of interest to the general reader and suitable for classroom use.

These results of research grants range from dictionaries of American Indian languages to state histories written for the general reader. Documents processed and made accessible for study may be collections of old photographs, Egyptian papyri, or personal papers of historical significance. Translations may be of a Russian journal of early 19th-century Alaska or a medieval treatise on philosophy in Latin. The meaning of the Constitution in the last third of this century is as much the Endowment's concern as the question whether semiotics is a special category of linguistics or a multidisciplinary approach to all human undestanding.

The programs of the Division are organized into three broad areas, described below.

Research Resources

The Research Resources Program helps make sources needed for scholarly research in the humanities more accessible for use. If funds projects to place previously unavailable material in public repositories; to facilitate access by preparing catalogs, inventories, registers, guides, bibliographies and other finding aids; and to improve the ways in which librarians, archivists, and others care for and make available research materials. Grants are of four major types: Collection development, access, consultants, and preservation and conservation projects.

One category of collection development is microfilming projects. Grants can be made both to microfilm materials in foreign repositories of interest to American humanists and to microfilm collections of unpublished materials in American repositories which attract a high level of scholarly use but which should no longer be consulted in the original because of their fragile condition. The program also makes a few grants to supplement a strong archival collection with data collected through oral history techniques. (The Divisions of Public and Special Programs also support some oral history projects.) Two kinds of surveys are also supported by the program. The first type locates and describes manuscripts or published sources in a number of repositories in order to prepare a specialized guide to research materials dealing with a broad subject area. The second type aims to locate materials of use to advanced humanistic research that have not yet been deposited in an institution.

A number of grants are made to support projects which address major national problems in the library and archival fields. Many grants have also been made for the preparation of bibliographies and guides, to catalog, inventory, arrange, describe, or otherwise organize significant research collections of both print and non-print materials in primary and secondary sources.

Consultant Grants assist institutions with significant holdings of research materials to analyze and develop their capabilities to administer and make accessible their resources.

The program also provides support for a small number of model conservation and preservation projects.

Research Materials

Grants from this program, for research tools and reference works, editions, translations, and publications, share a common purpose: To provide support for the preparation of reference works considered of first importance for advanced research in the humanities and of demonstrable significance to the student and general reader.

Grants for research tools and reference works are made for such purposes as the creation of dictionaries, atlases, encyclopedias, concordances, *catalogues raisonnés*, calendars, linguistic grammars, descriptive catalogs, and data bases. The program also encourages applications to conduct surveys for establishing the kinds of research materials thought to be most urgently needed by scholars working in a specific field in the humanities. The program is also providing grants for states to achieve bibliographic control of their newspaper holdings and for the selective microfilming of endangered newspaper files.

Grants are made for the editorial preparation of editions in all fields of the humanities. the program also will accept applications for consultant grants in editing to give advice about the problems posed by an editorial project.

The Translations Program provides support for annotated, scholarly, translations of classical or modern works that contribute to an understanding of the history, intellectual achievements, or contemporary social or political development of other cultures and serve as tools for further disciplinary or comparative research. Translations from any language, on any topic relative to the humanities, are eligible.

The Publications Program aids the publication and dissemination of works of scholarly distinction in all fields of the humanities. Proposals from publishers requesting subvention for such works, whether or not they have resulted from prior Endowment grants, will be considered if it can be shown that their publication would otherwise entail a serious deficit.

General Research

The General Research Program provides support for a wide range of scholarship in the humanities in three major areas: Basic Research, including archaeological projects; State, Local and Regional Studies; and Research Conferences. A high proportion of the grants in the program lead to published products that are of interest to the general reader as well as specialists.

The purpose of the Basic Research area is to develop knowledge in all fields of the humanities. Collaborative, interdisciplinary scholarship involving the efforts of several individuals at the professional, assistant, and clerical levels is encouraged, as well as the use of innovative methodologies.

Support is provided for American and foreign archaeology, excavations, materials analysis, and curatorial, research and prepublication work. Area studies, international studies, and cross-disciplinary studies in all fields are especially appropriate for consideration. Projects that relate the values of the humanities to developments in science and technology are encouraged as are projects that undertake to present the humanities to a general readership.

Through its State, Local, and Regional Studies category, the General Research Program supports projects that foster understanding and knowledge of the history and customs of regions and communities in the United States. Projects involving the cooperation of scholars and other citizens in developing and using new humanistic knowledge about state, local, and regional communities are encouraged. Projects may draw upon various disciplines in the humanities, such as economics, history, politics, languages

and literature, folklore, archaeology, and art history.

The Division supports a limited number of conferences, symposia and workshops to enable scholars to discuss and advance the current state of research on a particular topic or to consider means of improving conditions for research or inquiry.

**You may obtain further information by requesting a copy of the Division's guidelines from the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., NW., Washington, D.C. 20506. You may also contact program officers of the Division whose names are listed in the directory at the end of this Announcement.*

Division of Special Programs

The Division of Special Programs was created to bring together and to coordinate NEH programs which deal with non-traditional constituencies for the humanities, which seek to create new kinds of programming and formats for humanities activity, and which combine and forge links between various kinds of humanities activity. The program areas within the Division have the mission of making the humanities more accessible to the general public, particularly those portions not often involved in the humanities; focusing scholarly attention on critical national problems; and testing new ideas or activities which cut across divisional lines.

The programs in this Division are Youth Programs; Program Development and Special Projects; Science, Technology and Human Values; and Challenge Grants.

Youth Programs

The purpose of Youth Programs is to stimulate the active participation of young people in humanities projects. There are two program lines:

Youth Projects' Planning and Pilot awards and Major Project awards reach large numbers of young persons through the educational activities of national youth groups, museums, libraries and other institutions. Project activities are participatory in nature and are extracurricular involving the collaboration of youth, resource people in the humanities, educators and community leaders.

Youthgrants are made on a highly competitive basis to individual young persons on the strength of projects they design themselves. Youthgrants provide support directly and only for the work of young persons in the humanities. Most applicants are between 16 and 24. The projects they propose range over the whole gamut of NEH-funded activity.

Program Development

Program Development Grants are the chief means for bringing humanities programming to new groups in the population, such as labor unions, ethnic groups, and national adult membership organizations. Program Development Grants have also been used to extend the humanities resources of urban cultural and educational institutions to non-traditional audiences in cities, and to bring humanities considerations to bear on public policy concerns.

Special Projects

The Special Projects Program traditionally has considered projects that fall outside the Endowment's established guidelines, or that involve activities which cut across one or more NEH programs. Projects funded in the Special Projects category comprise a wide variety of unique, emergency, experimental or other special activities. Some may aid a particular group and some may support a consortium of diverse types of institutions attempting to mount an integrated program of scholarly, educational, and public activities. While the Special Projects funded by the Endowment are perhaps the most diverse of any NEH program category, they are regularly categorized by the bringing together of resources not ordinarily joined to produce direct links between scholarly research and a broad national audience. Examples include a series of international symposia focusing on individual foreign countries, and "Brooklyn Rediscovery," a project combining new research, curricular development, archival work and public programs.

Science, Technology and Human Values

In response to growing concern with the ethical and value implications of developments in science and technology, the Endowment has supported studies in this area through its Science, Technology and Human Values Program. Since its first such awards in 1970, NEH has granted through its various divisions more than $24 million to support over 300 projects in research, fellowships, education, and public programs to advance the understanding of these issues by American citizens. The Endowment has also supported scholarly work in the disciplines which underlay the science-values field: the history, philosophy, and sociology of science, and the emerging fields of the history and philosophy of technology.

The Endowment is particularly interested in programs which go beyond the analysis of specific conflicts to look at the philosophical and historical underpinnings of the scientific and technical activity in this and other cultures, and how these relate to other currents of belief and practice. The Endowment wishes to encourage the creation of archival collections and other resources which will sustain research in these areas in the future.

The program collaborates with the "Ethics and Values in Science and Technology" program at the National Science Foundation, and the two agencies have jointly funded projects involving humanists and scientists in interdisciplinary work. The fruitfulness of this relationship has encouraged the Endowment to explore similar relationships with other Federal agencies.

Challenge Grants

In response to the increasing financial difficulties of the nation's cultural institutions, a new method of funding devised to aid institutions that store, research, or disseminate the humanities was authorized by Congress in 1976. This mechanism, Challenge Grants, is designed to help institutions increase and broaden their bases of individual and corporate support by offering one Federal dollar to match at least three non-Federal dollars raised by the institution, either from new sources or from increases beyond the regular contributions of traditional sources.

Challenge Grants differ substantially from traditional Endowment grants, which support only specific projects with a defined scope, duration, and result, in that they are intended to improve an institution's financial base, administration, and managerial structure so that it will be able to perform its functions for the humanities.

**For further information about these programs, contact the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., N.W., Washington, D.C. 20506. You may also wish to contact the program officers whose names are listed in the directory at the end of the Announcement.*

Division of State Programs

The Division of State Programs provides support for state humanities councils which in turn support humanities projects at the local and state level. The Endowment's grants to state councils make possible programs and activities which equal in number and outreach those of the entire NEH itself.

Begun in 1970, state programs concentrate their efforts on projects which make the insights and values of one or more of the humanistic disciplines accessible to the adult, out-

of-school public. By 1975, a state humanities program was organized and active in each of the 50 states. Programs have subsequently been launched in Puerto Rico and the District of Columbia.

Their budgets vary in size. All programs are under the jurisdiction of a board or committee of approximately 20 individuals, half of whom are affiliated with professional and institutional humanistic organizations and half of whom represent a broad spectrum of public and civic interests. Most programs have one office in each state, with a full time staff of three or four people. Most state councils concentrate their efforts on projects which relate the humanities to matters of broad public interest and affect public policy. Many states also undertake work in the areas of local and social history, with distinctive programs in oral and ethnic history. Community forums, interpretive exhibits, documentaries, traveling projects, films, and other formats have been used to bring the humanities out of the classroom.

Individuals or groups wishing to apply to a state humanities program for a grant should contact the office in each state and ask for guidelines, deadlines, and explanatory materials which specify when and how each state processes applications, and what subjects, themes, or emphases are encouraged or disallowed. Many states conduct workshops or program development seminars across the state to acquaint audiences with their grant programs. All states require that the humanities be centrally involved in each funded project.

**A list of the state councils and their addresses is at the end of this Announcement. You may also wish to contact program officers of the Division whose names are listed in the directory at the end of this Announcement.*

Office of Planning and Policy Assessment:

Planning and Assessment Studies

The Endowment's role entails a commitment to foster research and development that results in more information about conditions in the humanities. Support is provided for studies and experiments designed to:

- Collect and analyze data—including information about financial, material, and human resources—which helps assess the status of and trends in important sectors of the humanities or which explore significant emerging issues concerning the humanities; and
- Develop models, techniques, and tools helpful in conducting policy research and analysis and in evaluating the effectiveness of institutional programs in the humanities.

How to Apply

Because of the limited funds available, only a small number of planning and assessment studies can be supported each year. These projects are normally funded only after careful preparation and extensive consultation between staff, knowledgeable specialists in the field, and those proposing to undertake the study.

While it is not mandatory, given the nature of the projects supported, applicants have found it useful to share an outline or draft of their proposed studies with program staff. An outline as brief as two or three pages is usually sufficient to describe the study's purpose and need, general methodology planned, duration, and cost. Staff will also review more complete statements that are closer to being actual proposals.

Inquiries and preliminary proposals should be sent to:

Planning and Assessment Studies, Office of Planning and Policy Assessment, Mail Stop 303, National Endowment for the Humanities, 806 15th Street, NW., Washington, D.C. 20506.

Deadlines For Grant Applications (Listed by Program)

Division	Deadline for receipt of applications	For projects beginning after
EDUCATION PROGRAMS		
Elementary and secondary education	Apr. 1, 1981	Oct. 1981.
	November 1, 1981	Apr. 1982.
Higher education/individual institutions:		
Consultants	Dec. 1, 1980	Mar. 1981.
	Mar. 1, 1981	June 1981.
	June 1, 1981	Oct. 1981.
	Dec. 1, 1981	Mar. 1982.
Pilot	Oct. 1, 1980	Apr. 1981.
	Apr. 1, 1981	Oct. 1981.
	Oct. 1, 1981	Apr. 1982.
Implementation	June 1, 1981	Jan. 1982.
Higher education/regional-national	Jan. 2, 1981	July 1981.
FELLOWSHIP PROGRAMS		
Fellowships for independent study and research	June 1, 1981	Jan. 1, 1982.
Fellowships for college teachers	June 1, 1981	Jan. 1, 1982.
Residential fellowships for college teachers	Nov. 9, 1980	Fall 1981.
	Nov. 10, 1981	Fall 1982.
Summer stipends for 1981	Oct. 13, 1980	Summer 1981.
	Oct. 12, 1981	Summer 1982.
Summer seminars for college teachers:		
Directors: For seminars held in the summer of 1982	July 1, 1981	Summer 1982.
Participants: For seminars held in the summer of 1981	Apr. 1, 1981	Summer 1981.
Fellowships for the professions:		
Fellowships for journalists	Mar. 2, 1981	Fall 1981.
Seminars for the professions	Apr. 13, 1981	Summer 1981.
Seminars for professional school teachers	Mar. 2, 1981	Summer 1981.
Centers for Advanced Study	Feb. 1, 1981	Fall 1982.
PUBLIC PROGRAMS		
Libraries projects	Jan. 15, 1981	July 1, 1981.
	July 15, 1981	Jan. 1, 1982.
Media projects	Jan. 8, 1981	July 1, 1981.
	July 10, 1981	Jan. 1, 1982.
Museums and historical organizations projects	Jan. 15, 1981	July 1, 1981.
	July 1981	Jan. 1, 1982.
RESEARCH PROGRAMS		
General research program:		
Basic research	Apr. 1, 1981	Dec. 1, 1981.
Basic research/Archaeological projects	Oct. 15, 1980	Apr. 1, 1981.
	Oct. 15, 1981	Apr. 1, 1982.
State, local, and regional studies	Mar. 1, 1981	Sept. 1981.
	Sept. 1, 1981	Mar. 1, 1982.
Research conferences	Nov. 15, 1980	Mar. 1, 1981.
	Feb. 15, 1981	June 1, 1981.
	Sept. 15, 1981	Dec. 1, 1981.
	Nov. 15, 1981	Mar. 1, 1982.
Research materials program:		
Research tools and reference works; and editions	Oct. 1, 1981	June 1, 1982.
Translations	July 1, 1981	Mar. 1, 1982.
Publications	May 15, 1981	Sept. 1, 1981.
	Nov. 15, 1981	Mar. 1, 1982.

Deadlines For Grant Applications (Listed by Program)—Continued

Division	Deadline for receipt of applications	For projects beginning after
Research resources	June 1, 1981	Mar. 1, 1982.
SPECIAL PROGRAMS		
Challenge grants:		
(a) Applicant's notice of Intent	Mar. 15, 1981.	
(b) Formal application	May 1, 1981	Fall 1981.
Program development and special projects	Jan. 15, 1981	June 1981.
Youth programs:		
Youth grants:		
(a) Applicant's preliminary narrative	Oct. 15, 1981	May 1, 1982.
(b) Formal application	Nov. 15, 1980	May 1, 1981.
	Nov. 15, 1981	May 1, 1982.
Youth projects:		
(1) Major Project Grants:		
(a) Applicant's preliminary proposal	Dec. 1, 1980	July 1, 1981.
	Dec. 1, 1981	July 1, 1982.
(b) Formal application	Jan. 15, 1981	July 1, 1982.
	Jan. 15, 1982	July 1, 1982.
(2) Planning and pilot grants	Apr. 15, 1981	Oct. 1, 1981.
State programs	Contact the Committee Office in your State (*See addresses beginning on page 36*).	
Office of Planning and Policy Assessment: Planning and assessment studies	Feb. 1, 1981	June 1, 1981.
	Aug. 1, 1981	Dec. 1, 1981.

Calendar of Deadlines for Receipt of Applications (*Listed by Date*)

	For projects beginning after	Division/program
1980		
December:		
1	*July 1, 1981*	Special Programs: Youth Projects—Major Project Grants (applicant's preliminary proposal).
1	*Mar. 1981*	Education: Consultant.
1981		
January:		
2	*July 1981*	Education: Higher Education/Regional-National.
8	*July 1, 1981*	Public Programs: Media Projects.
15	*June 1981*	Special Programs: Program Development and Special Projects.
15	*July 1, 1981*	Special Programs: Youth Projects—Major Project Grants (formal application)
15	*July 1, 1981*	Public Programs: Library Projects.
15	*July 1, 1982*	Public Programs: Museums and Historical Organizations Projects.
February:		
1	*June 1, 1981*	OPPA: Planning and Assessment Studies.
1	*Fall 1982*	Fellowships: Centers for Advanced Study.
15	*June 1, 1981*	Research: Research Conferences.
March:		
1	*June 1981*	Education: Consultant Grants.
1	*Sept. 1, 1981*	Research: State, Local, & Regional Studies.
2	*Summer 1981*	Fellowships: Seminars for Professional School Teachers.
2	*Fall 1981*	Fellowships for Journalists.
15	*Fall 1981*	Special Programs: Challenge Grants (applicant's notice of intent)
April:		
1	*Oct. 1981*	Education: Elementary & Secondary Education.
1	*Oct. 1981*	Education: Higher Ed/Individual Institutions Pilot Grants.
1	*Dec. 1, 1981*	Research: Basic Research.
1	*Summer 1981*	Fellowships: Summer Seminars For College Teachers, Participants, for Seminars held in the summer of 1981.
13	*Summer 1981*	Fellowships: Seminars for the Professions.
15	*Oct. 1, 1981*	Special Programs: Youth Projects, Planning and Pilot Grants.
May:		
1	*Fall 1981*	Special Programs: Challenge Grants (formal application)
15	*Sept. 1, 1981*	Research: Publications.
June:		
1	*Oct. 1981*	Education: Consultant Grants.
1	*Mar. 1, 1982*	Research: Research Resources.
1	*Jan. 1, 1982*	Fellowships: Fellowships for Independent Study and Research.
1	*Jan. 1, 1982*	Fellowships: Fellowships for College Teachers.
1	*Jan. 1982*	Education: Implementation.
July:		
1	*Mar. 1, 1982*	Research: Translations.
1	*Summer 1982*	Fellowships: Summer Seminars For College Teachers, Directors, for seminars held in the summer of 1982.
10	*Jan. 1, 1982*	Public Programs: Media Projects.
10	*Jan. 1, 1982*	Public Programs: Museums & Historical Organizations Projects.
10	*Jan. 1, 1982*	Public Programs: Library Projects.

Calendar of Deadlines for Receipt of Applications (*Listed by Date*)—Continued

	For projects beginning after	Division/program
August:		
1	*Dec. 1, 1981*	OPPA: Planning and Assessment Studies.
September:		
1	*Mar. 1, 1982*	Research: State, Local, & Regional Studies.
15	*Dec. 1, 1981*	Research: Research Conferences.
October:	*May 1, 1982*	Special Programs: Youth grants (applicant's preliminary narrative)
1	*Apr. 1982*	Education: Pilot Grants.
1	*June 1, 1982*	Research: Research Tools and Reference Works; and Editions.
13	*Summer 1982*	Fellowships: Summer Stipends for 1982.
15	*Apr. 1, 1982*	Research: Basic Research/Archaeological Projects.
November:	*May 1, 1982*	Special Programs: Youth grants (formal application)
10	*Fall 1982*	Fellowships: Residential Fellowships for College Teachers.
15	*Mar. 1, 1982*	Research: Publications.
15	*Mar. 1, 1982*	Research: Research Conferences.
December:		
1	*Mar. 1982*	Education: Consultant Grants.

State Humanities Councils

Alabama

The Committee for the Humanities in Alabama, Box 700, Birmingham-Southern College, Birmingham, AL 35204, (205) 324–1314.

Alaska

Alaska Humanities Forum, 429 D Street, Room 211, Loussac Sogn Building, Anchorage, AK 99501, (907) 272–5341.

Arizona

Arizona Humanities Council, 112 North Central Ave., Suite 304, Phoenix, AZ 85004, (602) 257–0335.

Arkansas

Arkansas Endowment for the Humanities, University Tower Building, 12th & University, Suite 1019, Little Rock, AR 72204, (501) 663–3451.

California

California Council for the Humanities, 312 Sutter Street, Suite 601, San Francisco CA 94108, (415) 391–1474.

Colorado

Colorado Humanities Program, 855 Broadway, Boulder, CO 80302, (303) 442–7298.

Connecticut

Connecticut Humanities Council, 195 Church Street, Wesleyan Station, Middletown, CT 06457, (203) 347–6888, 347–3788.

Delaware

Delaware Humanities Forum, 2600 Pennsylvania Avenue, Wilmington, DE 19806, (302) 738–8491.

District of Columbia

D.C. Community Humanities Council, 1341 G Street, N.W., Suite 620, Washington, DC 20005, (202) 347–1732.

Florida

Florida Endowment for the Humanities, LET 360 University of South Florida, Tampa, FL 33620, (813) 974–4094.

Georgia

Committee for the Humanities in Georgia, 1589 Clifton Road, N.E., Emory University, Atlanta, GA 30322, (404) 329–7500.

Hawaii

Hawaii Committee for the Humanities, 2615 South King Street, Suite 211, Honolulu, HI 96826, (808) 947–5891.

Idaho

The Association for the Humanities in Idaho, 1403 W. Franklin Street, Boise, ID 83702 (208) 345–5346.

Illinois

Illinois Humanities Council, 201 W. Springfield Avenue, Suite 205, Champaign, IL 61820, (217) 333–7611.

Indiana

Indiana Committee for the Humanities, 4200 Northwestern Avenue, Indianapolis, IN 46205, (317) 925–5316.

Iowa

Iowa Board for Public Programs in the Humanities, Oakdale Campus, University of Iowa, Iowa City, IA 52242, (319) 353–6754.

Kansas

Kansas Committee for the Humanities, 112 West Sixth Street, Suite 509, Topeka, KS 66603, (913) 357–0359.

Kentucky

Kentucky Humanities Council, Ligon House, University of Kentucky, Lexington, KY 40508, (606) 258–5932.

Louisiana

Louisiana Committee for the Humanities, 4426 S. Robertson, New Orleans, LA 70115, (540) 865–9404.

Maine

Maine Council for the Humanities and Public Policy, P.O. Box 7202, Portland, ME 04112, (207) 773–5051.

Maryland

The Maryland Committee for the Humanities, 330 North Charles Street, Room 306, Baltimore, MD 21202, (301) 837–1938.

Massachusetts

Massachusetts Foundation for the Humanties and Public Policy, 237–E Whitmore Administration Bldg., University of Massachusetts, Amherst, MA 01003, (413) 545–1936.

Michigan

Michigan Council for the Humanities, Nisbet Building, Suite 30, Michigan State University, East Lansing, MI 48824, (517) 355–0160.

Minnesota

Minnesota Humanities Commission, Metro Square, Suite 282, St. Paul, MN 55101, (612) 224–5739.

Mississippi

Mississippi Committee for the Humanities, 3825 Ridgewood Road, Room 111, Jackson, MS 39211, (601) 982–6752.

Missouri

Missouri State Committee for the Humanities, Loberg Building, Suite 202, 1145 Dorsett Road, St. Louis, MO 63043, (314) 889–5940.

Montana

Montana Committee for the Humanities, P.O. Box 8036, Hellgate Station, Missoula, MT 59807, (406) 243–6022.

Nebraska

Nebraska Committee for the Humanities, Cooper Plaza, Suite 405, 211 N. 12th Street, Lincoln, NB 68508, (308) 234–2110.

Nevada

Nevada Humanities Committee, P.O. Box 8065, Reno, NV 89507, (702) 784–6587.

New Hampshire

New Hampshire Council for the Humanities, 112 South State Street, Concord, NH 03301, (603) 224–4071.

New Jersey

New Jersey Committee for the Humanities, Rutgers, The State University, CN 5062, New Brunswick, NJ 08903, (201) 932–7726.

New Mexico

New Mexico Humanities Council, 1805 Roma N.E., The University of New Mexico, Albuquerque, NM 87131, (505) 277–3705 (Albuquerque); (505) 646–1945 (Las Cruces).

New York

New York Council for the Humanities, 33 West 42nd Street, New York, NY 10036, (212) 354–3040.

North Carolina

North Carolina Humanities Committee, 112 Foust Bldg., UNC-Greensboro, Greensboro, NC 27412, (919) 379–5325.

North Dakota

North Dakota Committee for the Humanities and Public Issues, Box 2191, Bismarck, ND 58501, (701) 663–1948.

Ohio

The Ohio Program in the Humanities, 760 Pleasant Ridge Avenue, Columbus, OH 43209, (614) 236–6879.

Oklahoma

Oklahoma Humanities Committee, Executive Terrace Building, 2809 Northwest Expressway, Suite 500, Oklahoma City, OK 73112, (405) 840–1721.

Oregon

Oregon Committee for the Humanities, 418 S.W. Washington, Room 410, Portland, OR 97201, (503) 241–0543.

Pennsylvania

Public Committee for the Humanities in Pennsylvania, 401 N. Broad Street, Philadelphia, PA 19108, (215) 925–1005.

Puerto Rico

Fundacion Puertorriquena de las Humanidades, Box 4307, Old San Juan, PR 00904, (809) 723–2087.

Rhode Island

Rhode Island Committee for the Humanities, 86 Weybosset Street, Room 307, Providence, RI 02903, (401) 521–6150.

South Carolina

South Carolina Committee for the Humanities, 17 Calendar Court, Columbia, SC 29206, (803) 799–1704.

South Dakota

South Dakota Committee on the Humanities, University Station, Box 35, Brookings, SD 57006, (605) 688–4823.

Tennessee

Tennessee Committee for the Humanities, 1001 18th Avenue South, Nashville, TN 37212, (615) 320–7001.

Texas

Texas Committee for the Humanities, 1604 Nueces, Austin, TX 78701, (512) 473–8585.

Utah

Utah Endowment for the Humanities, 10 West Broadway, Broadway Building, Suite 900, Salt Lake City, UT 84101, (801) 531–7868.

Vermont

Vermont Council on the Humanities and Public Issues, Grant House, P.O. Box 58, Hyde Park, VT 05655, (802) 888–5060.

Virginia

Virginia Foundation for the Humanities and Public Policy, One-B West Range, University of Virginia, Charlottesville, VA 22903, (804) 924–3296.

Washington

Washington Commission for the Humanities, Olympia, WA 98505, (206) 866–6510.

West Virginia

The Humanities Foundation of West Virginia, Box 204, Institute, WV 25112, (304) 768–8869.

Wisconsin

Wisconsin Humanities Committee, 716 Langdon Street, Madison, WI 53706, (608) 262–0706.

Wyoming

Wyoming Council for the Humanities, Box 3274, University Station, Laramie, WY 82701, (307) 766–6496.

Senior Staff of the Endowment

(All numbers are in Area Code 202)

Chairman—Joseph D. Duffey, 724–0347
Deputy Chairman—Patricia Ann McFate, 724–0336
Deputy Chairman, Management—John Whitelaw, 724–0650
Assistant Chairman of Institutional Relations—Thomas V. Litzenburg, Jr., 724–1588
Special Assistant to the Chairman—Leonard P. Oliver, 724–0297
Special Assistant to the Chairman—James G. McCargar, 724–0657
General Counsel—Joseph R. Schurman, 724–0367
Congressional Liaison—Channing Phillips, 724–0361
Public Affairs Office—Barry D. Wanger, Director, 724–0256
Office of Planning and Policy Assessment—Armen Tashdinian, Director, 724–0344
Program Planning—Bruce Carnes 724–0344
Evaluation and Assessment Studies—Stanley Turesky, 724–0369
Division of Education Programs—Geoffrey Marshall, Director, 724–0351; Myron Marty, Deputy Director, 724–0351
Elementary and Secondary Education—Francis Roberts, 724–0373
Higher Education/Individual Institutions—H. Gene Moss, 724–0393
Higher Education/Regional-National—Blanche Premo, 724–0311
Division of Public Program—Martin Sullivan, Director, 724–0231; Shirley H. Sun, Deputy Director, 724–0231
Humanities Projects in Libraries—Thomas Phelps, 724–0760
Humanities Projects in Media—Stephen Rabin, 724–0318
Humanities Projects in Museums and Historical Organizations—Cheryl McCLenney, 724–0327
Division of Fellowships and Seminars—James Blessing, Director, 724–0238; Guinevere Griest, Deputy Director, 724–0238
Fellowships for Independent Study and Research—David Coder, 724–0333
Fellowships for College Teachers—Karen Fuglie, 724–0333
Residential Fellowships for College Teachers—Morton Sosna, 724–0376
Summer Stipends—724–0376
Summer Seminars for College Teachers—Dorothy Wartenberg, 724–0376
Fellowships for the Professions—Julian F. MacDonald, 724–0376
Centers for Advanced Studies—Morton Sosna, 724–0376
Division of Research Program—Harold Cannon, Director, 724–0226; Marjorie Berlincourt, Deputy Director, 724–0226
General Research—John Williams, 724–0276
Research Materials—George Farr, 724–1672
Research Resources—Margaret Child, 724–0341
Division of Special Programs—Carole Huxley, Director, 724–0261
Challenge Grants—Stephen Goodell, 724–0267
Program Development/Special Projects—Lynn Smith, 724–0398
Youth Programs—Marion C. Blakey, 724–0396
Science, Technology and Human Values—Richard Hedrich, 724–0354
Division of State Programs—B. J. Stiles, Director, 724–0286; Donald D. Gibson, Deputy Director, 724–0286

Joseph D. Duffey,

Chairman.

[FR Doc. 80-36706 Filed 11-24-80; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7934.

SUPPLEMENTARY INFORMATION: On October 7, 1980, the National Science Foundation published a notice in the **Federal Register**, page 66534, of permit applications received. On November 10, 1980 permits were issued to: David G. Ainley, Robert W. Risebrough, and Wayne Trivelpiece.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 80–36732 Filed 11–24–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50–313 and 50–368]

Arkansas Power & Light Co., Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear regulatory Commission (the Commission) has issued Amendments Nos. 47 and 17 to Facility Operating Licenses Nos. DPR–51 and NPF–6, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO–1&2) located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments modify the ANO–1&2 Appendices A and B Technical Specifications dealing with Arkansas Power & Light Company management organization structure.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's application dated September 29, 1980, as supplemented on October 16, 1980, (2) Amendment No. 47 to License No. DPR–51 and Amendment No. 17 to License No. NPF–6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of November 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80–36750 Filed 11–24–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–170]

Armed Forces Radiobiology Research Institute (AFRRI); Consideration of Application for Renewal of Amended Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–84, issued to the Armed Forces Radiobiology Research Institute (AFRRI) (the licensee), for operation of the TRIGA-type research reactor located on the National Naval Medical Center site in Bethesda, Maryland.

The renewal would extend the expiration date of Facility License No. R–84 to November 8, 2000, in accordance with the licensee's timely application for renewal dated October 3, 1980.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 26, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic LIcensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the

hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (Armed Forces Radiobiology Research Institute) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Captain Paul Taylor, Armed Forces Radiobiology Research Institute, National Naval Medical Center, Bethesda, Maryland 20014.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated October 3, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 18th day of November 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80-36745 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No.: 50-157]

Cornell University; Consideration of Application for Renewal of Amended Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–80, issued to Cornell University (the licensee), for operation of the TRIGA-type research reactor located on the University's Campus in Ithaca, New York.

The renewal would extend the expiration date of Facility License No. R–80 to June 29, 2000, in accordance with the licensee's timely application for renewal dated May 27, 1980, as supplemented on September 15, 1980.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 26, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition wihout requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (Cornell University) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Dean Paul McIssac, College of Engineering, Carpenter Hall, Cornell University, Ithaca, New York.

Nontimely filings or petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearings will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with request to this action, see the application for renewal dated May 27, 1980, as supplemented on September 15, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 18th day of November 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80-36744 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses and Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 88, 88 and 85 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments replace the current inservice inspection Technical Specifications with an inservice inspection program that meets the requirements of 10 CFR 50.55a.

By letter dated November 7, 1980, as supported by the related Safety Evaluation, the Commission has also granted to the licensee relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components". The relief relates to the inservice inspection program for the Station. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The applications for the amendments and requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments, and letter granting relief. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details with respect to this action, see (1) the applications for amendments dated October 1, 1976, and July 8, 1977, as combined in the application dated May 30, 1979, and as supplemented May 26, 1977, September 21, 1977, and June 11, 1979, and the application dated March 24, 1980, (2) Amendments Nos. 88, 88 and 85 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's letter to the licensee dated November 7, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-36751 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia.

This amendment was authorized by phone on October 29, 1980. It revises the Technical Specifications for the Service Water System. This revision changes the operability requirements to reflect the availability of an alternate cooling water source to diesel generator 1B. The amendment was issued on an expedited basis because the existing Technical Specifications (1) were different for Hatch Unit No. 2, (2) did not specifically cover the situation at the Unit and (3) were overly restrictive in view of the lack of a safety issue.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1980, (2) the Commission's letter to the licensee dated November 3, 1980, (3) Amendment No. 80 to License No. DPR-57, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-36748 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 & 50-323]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Request for Action

By letter of October 17, 1980, David Fleischaker, Esq., requested on behalf of the joint intervenors in the Diablo Canyon operating license proceeding that the Director of Nuclear Reactor Regulation take action to have prepared a supplemental environmental impact statement on the environmental consequences of Class 9 accidents at the Diablo Canyon Nuclear Power Plants. Mr. Fleischaker's letter was supported by the affidavit of Mr. Richard B. Hubbard. Mr. Fleischaker asks that this action be taken prior to issuance of either a low or full power license for the plants.

Mr. Fleischaker's request is being treated under 10 CFR 2.206 of the Commission's regulations. The request is similar to a request filed by the Friends of the Earth, which was recently denied under 10 CFR 2.206. DD-80-22, 11 NRC 919 (June 1980). Nonetheless, the Staff will review Mr. Fleischaker's letter and Mr. Hubbard's affidavit to determine whether the requested relief should be granted under 10 CFR 2.206. Action on the request will be taken within a reasonable time.

Copies of the letter and affidavit are available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 19th day of November, 1980.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36747 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to the Facility Operating License No. NPF-7, issued to Virginia Electric and Power Company for the North Anna Power Station, Unit No. 2, which changes a Technical Specification contained in Facility Operating License NPF-7. The amendment is effective as of its date of issuance.

The amendment changes one Technical Specification regarding leak testing of certain pressure isolation valves prior to entering Mode 2 rather than Mode 4.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric and Power Company letter dated November 4, 1980, (2) Amendment No. 1 to Facility Operating License No. NPF-7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 17th day of November 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36752 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on December 4-6, 1980, in Room 1046, 1717 H Street, NW, Washington, D.C. Notice of this meeting was published in the **Federal Register** on October 24, 1980.

The agenda for the subject meeting will be as follows:

Thursday, December 4, 1980

8:30 A.M.-8:45 A.M.: Opening Session (Open) —The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.-1:00 P.M.: Three Mile Island Nuclear Station Unit 1 (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed operation of the Three Mile Island Nuclear Station Unit 1. The Committee will also hear and discuss presentations from the NRC Staff, the licensee, and members of the public who may have an interest in the matters being discussed.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

2:00 P.M.-3:00 P.M.: New Safety Concepts for Future Nuclear Plant Designs (Open)—The Committee members will discuss a proposed interim report to the NRC regarding new safety concepts for future nuclear power plant designs.

3:00 P.M.-5:00 P.M.: Generic Items Applicable to Light-Water Reactors (Open)—The Committee will hear and discuss reports from designated subcommittee chairmen regarding the status of generic items applicable to light-water reactors.

5:00 P.M.-6:00 P.M.: Reports of ACRS Subcommittees on Safety Related Matters (Open) The committee will hear and discuss the reports of subcommittees on proposed NRC Guides regarding utility management structure and technical support, and consideration of Class 9 accidents in the licensing process.

Friday, December 5, 1980

8:30 A.M.-11:30 A.M.: Waste Storage and Disposal (Open)—The Committee will hear and discuss the report of its Subcommittee on Waste Management and consultants who may be present regarding those matters needing further consideration in connection with the NRC proceeding to determine the degree

of confidence that radioactive wastes produced by nuclear facilities will be safely stored and ultimately disposed of.

The Committee will also hear a status report from the ACRS Subcommittee regarding proposed criteria for the geologic disposal of radioactive wastes.

The Committee will hear and discuss reports and comments from representatives of the NRC Staff, the Department of Energy, and the nuclear industry and from members of the public who may have an interest regarding this matter.

11:30 A.M.–12:30 P.M.: Reactor Operating Experience (Open)—The Committee will hear and discuss a report from the NRC Staff regarding the October 17, 1980 incident at the Indian Point Generating Station Unit 2 which released large quantities of service water inside the containment. The current status of the plant will also be discussed.

1:30 P.M.–2:00 P.M.: Discuss ACRS Position Regarding Items to be Discussed with the NRC Chairman and Commissioners (Open)—The Committee members will discuss proposed comments regarding items to be discussed with the NRC Chairman and other Commissioners who may have an interest. These topics will include proposed ACRS review of the procedures for certification of shipping containers for radioactive materials, ACRS review of the proposed NRC Long-Range Safety Research Program, and ACRS consideration of design criteria for advanced nuclear power plants.

2:00 P.M.–2:45 P.M.: Meeting with NRC Chairman and other Commissioners (Open)—The Committee will meet with the NRC Chairman and other Commissioners who may have an interest to discuss the items noted above.

2:45 P.M.–6:00 P.M.: North Anna Nuclear Generating Station Unit 2 (Open)—The Committee will hear and discuss reports from the NRC Staff and the Licensee regarding strengthening of the operating staff, the results of the augmented low power test program, steam generator tube integrity, probabilistic assessment of plant features and suggested changes for improved decay heat removal capability.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Saturday, December 6, 1980

8:30 A.M.–12:30 P.M: Proposed ACRS Reports to NRC (Open)—The Committee members will discuss proposed reports to NRC regarding items considered during this meeting. The Committee will also discuss a proposed report to NRC regarding the performance of hydraulic scram systems in BWR nuclear plants and clarification of its report to NRC on Anticipated Transients Without Scram.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to these matters.

1:30 P.M.–2:15 P.M.: Reports of ACRS Subcommittees (Open)—The Committee will hear the reports of ACRS Subcommittees regarding the status of their activities in designated areas including evaluation of Licensee Evaluations Reports, ACRS Procedures and a Passive Containment System proposed for licensing.

2:15 P.M.–4:00 P.M.: Concluding Session (Open)—The Committee will discuss the future schedule for ACRS activities and proposed ACRS comments/positions on safety related matters considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–36740 Filed 11–24–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published Oct. 24, 1980 (45 FR 70606). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m., and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the December 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Three Mile Island Nuclear Power Plant, Unit No. 1,* November 28–29, 1980, Washington, DC. The Subcommittee will review the modifications made to TMI–1 in preparation for a restart following the

TMI–2 accident. Notice of this meeting was published Nov. 13.

**Advanced Reactors,* December 2, 1980, Washington, DC. The Subcommittee will review the current proposal for the NRC Reactor Safety Research Program Budget for FY–82 in preparation of the ACRS Annual Report to Congress, and matters related to the establishment of quantitative safety criteria. Notice of this meeting was published Nov. 17.

**Reactor Operations,* December 2, 1980 (afternoon), Washington, DC. The Subcommittee will discuss NRC guidelines for utility management structure and technical resources. Notice of this meeting was published Nov. 17.

**Regulatory Activities,* December 3, 1980, Washington, DC. CANCELLED. Notice of this meeting was published Oct. 24.

**Reliability and Probabilistic Assessment,* December 3 (morning), 1980, Washington, DC. The Subcommittee will review the NRC Safety Research Program Budget for the FY–82 Decision Unit on Systems and Reliability Analysis (SARA), and related items on the use of risk assessment in the licensing process. Notice of this meeting was published Nov. 17.

**Reactor Safety Research Program,* December 3, 1980, Washington, DC. The Subcommittee will discuss new developments in NRC Reactor Safety Research Programs since the issuance of the ACRS Report to NRC (NUREG–0699); NRC's long-range Reactor Safety Research Program plans; preliminary draft chapters or sections of the ACRS Annual Report to Congress on the NRC's FY–82 Reactor Safety Research Program Budget; and the Department of Energy's Light-Water Reactor Safety Technology Program and the associated budget. Notice of this meeting was published Nov. 17.

**Procedures and Administration,* December 3, 1980 (afternoon), Washington, DC. The Subcommittee will discuss proposed procedures and guidelines for ACRS review of safety related standards and criteria consistent with the memo of understanding between the EDO and ACRS regarding ACRS participation in the NRC rulemaking process and the Atomic Energy Act Section 29. Notice of this meeting was published Nov. 18.

**Emergency Core Cooling Systems,* December 10–11, 1980, San Jose, CA. The Subcommittee will review NRC research programs related to transients, LOCA and ECCS. Notice of this meeting was published Oct. 24.

Reactor Radiological Effects and Site Evaluation, December 11, 1980, Washington, DC. The Subcommittee will discuss preparation of appropriate chapters of the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget. Notice of this meeting was published Oct. 24.

**Reactor Radiological Effects,* December 12, 1980, Washington, DC. The Subcommittee will discuss the state-of-the-art in the area of radiation standards and dose limits to radiation workers. Notice of this meeting was published Oct. 24.

**Site Evaluation and Reactor Radiological Effects,* December 13, 1980, Washington, DC. The Subcommittees will discuss the Generic Environmental Impact Statement on Class-9 Accidents at nuclear power plants. Also, the Subcommittees will discuss and summarize the previous two days meetings on the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget, and the discussion on radiation standards for workers. Notice of this meeting was published Oct. 24.

**Combination of Dynamic Loads,* December 16–17, 1980, Washington, DC. The Subcommittee will continue its review regarding the use of dynamic load combinations as a design basis for nuclear power plants. Notice of this meeting was published Oct. 24.

**Babcock and Wilcox Water Reactors,* December 18, 1980, Washington, DC. The Subcommittee will review the Feb. 26, 1980 event at Crystal River, Unit 3 to determine if there are any significant features or causes that are generic to Babcock and Wilcox water reactors. Notice of this meeting was published Nov. 10.

*AC/DC Power Systems Reliability, Mid-December (date to be announced), Washington, DC. The Subcommittee will discuss the expected NRC Report on DC Power Systems Reliability and the NRC plans for future work.

**Regulatory Activities,* January 6, 1981, (tentative) Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Metal Components,* January 7, 1981, Washington, DC. The Subcommittee will discuss inservice inspection techniques as applied to the reactor coolant pressure boundary. Notice of this meeting was published Oct. 24.

Reactor Safety Research Program, January 7, 1981, Washington, DC. The Subcommittee will discuss draft chapters of the ACRS Annual Report to Congress on NRC's FY–82 Reactor Safety Research Program Budget.

**Emergency Core Cooling Systems,* January 15, 1981, Albuquerque, NM. The Subcommittee will meet to discuss progress in the NRC Reactor Safety Research Programs on ECCS/LOCA, and Transient Code development.

**Consideration of Class-9 Accidents,* January 16, 1981, Albuquerque, NM. The Subcommittee will discuss the research programs at Sandia Laboratories on steam explosions and H_2 mitigation features.

**Fort St. Vrain Nuclear Power Plant,* January 27, 1981 (Tentative), at plant site near Longmont, CO. The Subcommittee will review operating experience, degree of success in eliminating the core power fluctuations, test results above 70% of rated power, core performance (fuel and structural), and plans for future operations, modifications, and refueling.

**Extreme External Phenomena,* January 29–30, 1981, Los Angeles, CA. The Subcommittee will discuss the status of the Seismic Safety Margins Program. It is expected that Phase 1 of this Program will have been completed by the time of this meeting.

**Indian Point Nuclear Power Plant, Unit 2, and Metal Components,* January, 1981, (date to be announced), Washington, DC. The Subcommittee will review the containment leakage accident and will discuss the possible pressure vessel degradation caused by the accident.

**Regulatory Activities,* February 3, 1981, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

Reactor Safety Research Program, February 4, 1981 (tentative), Washington, DC. The Subcommittee will discuss the draft ACRS Annual Report to Congress on the NRC's FY-82 Reactor Safety Research Program Budget.

ACRS Full Committee Meetings

December 4–6, 1980

A. **Three Mile Island Nuclear Power Station, Unit 1*—Proposed restart and operation of this Unit.

B. **North Anna Nuclear Power Station, Unit 2*—Discuss matters related to plant staffing, results of the augmented low-power test program, steam generator tube integrity, and decay heat removal capability.

C. **Generic Items Applicable to Light-Water Reactors*—Discuss proposed revision of ACRS report regarding the status of unresolved generic items applicable to light-water reactors.

D. **Proposed NRC Guidelines Regarding Utility Management Structure and Technical Support*—Discuss proposed NRC guidelines.

E. **BWR Hydraulic Scram Systems*—Discuss proposed ACRS report regarding design and performance of these systems.

F. **Indian Point Nuclear Power Station, Unit 2*—Discuss incident of Oct. 17, 1980 in which a large quantity of service water was released into the containment from piping system leaks.

G. **Meeting with NRC Chairman and Commissioners*—Discuss items related to the NRC regulatory process and nuclear plant safety.

H. **Reports of ACRS Subcommittees Regarding Various Safety Related Matters*—Waste management and disposal, improved engineered safety features, consideration of Class-9 Accidents in nuclear power plant design, and evaluation of nuclear power plant operating experience.

I. The Committee will also consider and discuss:

(1) *The conceptual design for a *Passive Containment System* proposed for licensing.

(2) *Clarification of its report of April 16, 1980 to NRC regarding *Anticipated Transients Without Scram.*

(3) *The schedule for ACRS consideration of items at future meetings.

January 8–10, 1981: Agenda to be announced.

February 5–7, 1981: Agenda to be announced.

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-36741 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Reactor Radiological Effects and Site Evaluation; Meeting

The ACRS Subcommittees on Reactor Radiological Effects and Site Evaluation will meet at 8:30 a.m., December 11, 1980, in room 1048, 1717 H Street, NW, Washington, DC to discuss preparation of appropriate chapters of the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss specific NRC FY 1982 budget proposals. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, December 11, 1980

8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to Mr. Garry G. Young, ACRS Staff (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST. The cognizant Designated Federal Employee for this meeting is Mr. John C. McKinley.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-36743 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, TP 102–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Safety Features of Gauges Containing Radioactive Material" and is intended for Division 6, "Products." It is being developed to provide terminology acceptable to the NRC staff for use by applicants and licensees in describing radiation safety features of gauges containing radioactive material possessed and used under portions of the Commission's regulations. The guide will endorse the terminology provided in ANSI N538–1979, "Classification of Industrial Ionizing Radiation Gauging Devices."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 23, 1981.

Although a time limit is given for comments on these drafts, comments

and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80-36753 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Renewal of the Committee on Private Voluntary Agency Eligibility

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management is renewing the charter for the Committee on Private Voluntary Agency Eligibility (the Committee). This action is taken in accordance with provisions of the Federal Advisory Committee Act which require the rechartering of advisory committees at least every two years as a means of insuring against the continuation of committees which are no longer carrying out the purposes for which they were established. The Committee will continue in its advisory role to the Director of the Office of Personnel Management in matters pertaining to the eligibility of national voluntary agencies to solicit on the job in Federal installations and certain other matters relating to fund-raising appeals.

EFFECTIVE DATE: November 16, 1980.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Wisoff, 202-632-4471.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Committee on Private Voluntary Agency Eligibility—Charter

A. *Official Designation.* The Committee on Private Voluntary Agency Eligibility was established by the Director of the Office of Personnel Management under authority of Executive Order 10927.

B. *Objectives and Scope.* The purpose of the Committee is to insure through prior review of applications and supplementary financial and accounting data that only responsibile and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations regarding certain other matters relating to fund-raising appeals when requested. The Committee is composed of Federal officials and representatives from recognized employee organizations.

C. *Duration.* The duration of this Committee is indefinite. A new determination as to its needs will be made not more than 60 days nor less than 30 days prior to November 13, 1982.

D. *Responsible Agency and Official.* The Eligibility Committee advises the Director of the Office of Personnel Management.

E. *Agency Providing Support.* The Office of Personnel Management provides the necessary support for the Eligibility Committee.

F. *Committee Responsibilities.* The Committee is responsible for recommending to the Director of the Office of Personnel Management eligibility determinations on national voluntary agencies. Upon request by the OPM Director, the Committee may also provide advice on other matters relating to the Federal fund-raising program.

G. *Estimated Annual Operating Costs.* Approximately $1,500 and 1/20th staff year.

H. *Meetings.* The Committee meets on the average of once a year, to consider applications of national voluntary organizations for participation in the Federal fund-raising program.

I. *Date Filed.* November 14, 1980.

[FR Doc. 80-36656 Filed 11-24-80; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Weather Modification Advisory Group; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Weather Modification Advisory Group.

Date: December 11, 12, 1980.

Time: 9 a.m. to 5 p.m. on December 11, 9 a.m. to 12 noon on December 12.

Place: Room 4830, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Type of meeting: Open.

Contact person: Mr. John Houghton, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202/395-3732.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of Advisory Committee: In late 1979, the Secretary of Commerce delivered to the President and the Congress a report on national weather modification programs and policies pursuant to the National Weather Modification Policy Act of 1976. The report indicates that well-coordinated research and development programs carried out by a number of Federal agencies can contribute to advances in weather modification science and technology. A Weather Modification Subcommittee under the Committee on Atmospheres and Oceans, Federal Coordinating Council for Science, Engineering, and Technology, has been established to ensure that Federal research is carried out in the context of a coherent, long-term research plan. The Weather Modification Advisory Committee will ensure close public scrutiny and involvement in the planning and conduct of the Federal Program, including the Weather Modification Subcommittee, as it is carried forward.

Agenda: 9 a.m. to 5 p.m.—Welcoming, committee organization, and review of draft national weather modification plan. 9 a.m. to 12 noon—Continued review of weather modification plan.

William J. Montgomery,

Executive Officer.

[FR Doc. 80-36768 Filed 11-24-80; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21796; 70-6131]

Arkansas Power & Light Co.; Post-Effective Amendment Regarding Proposed Transactions Related to Financing of Pollution Control Facilities

November 19, 1980.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas") First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a post-

effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

Arkansas has constructed, or is in the process of constructing, two coal-fired generating units known as White Bluff Unit Nos. 1 and 2 ("White Bluff Plant"), presently estimated to have a capability of 750 MW each, and located near Redfield, in Jefferson County, Arkansas, and a second unit (912 MW) at its nuclear generating station known as Arkansas Nuclear One ("ANO"), located near Russellville, in Pope County, Arkansas. In order to comply with prescribed federal, state, or local standards with respect to air or water quality or disposal of sewage or solid waste, it has been and will be necessary to construct certain facilities for pollution control purposes at the White Bluff Plant and ANO. Arkansas Electric Cooperative Corporation, City Water and Light Plant of the City of Jonesboro, Arkansas, the City of Conway, Arkansas, and the City of West Memphis, Arkansas own undivided interests of 35%, 5%, 2%, and 1%, respectively, in the White Bluff Plant.

By orders in this proceeding dates August 3, 1978, and August 24, 1978 (HCAR Nos. 20659 and 20681), Arkansas was authorized to conduct certain transactions related to the financing of pollution control facilities at the White Bluff Plant and ANO. The post-effective amendment relates to additional costs of construction of certain pollution control facilities at the White Bluff Plant and ANO. Such facilities were disposed of and are being reacquired by Arkansas pursuant to authorization from this Commission (See File Nos. 70–5642, 70–6037, and 70–6131).

I. White Bluff Plant

Arkansas proposes to enter into a Second Supplemental Installment Sale Agreement (Pollution) ("1980 Jefferson Supplemental Agreement"), with Jefferson County, Arkansas, amending and supplementing the Installment Sale Agreement (Pollution), dated as of October 1, 1977, as previously amended and supplemented (Jefferson Sale Agreement"), pursuant to which, among other things, (i) Jefferson County agreed to sell to Arkansas, subject to the retention of a lien and security interest, and Arkansas agreed to purchase from Jefferson County, certain pollution control facilities at the White Bluff Plant ("Jefferson Facilities"), for a purchase price, together with interest thereon, payable in semi-annual installments over a term of years and (ii) Jefferson County agreed to issue its Pollution Control Revenue Bonds, Series 1977 ("Series 1977 Bonds") and its Pollution Control Revenue Bonds, Series 1978 ("Jefferson Series 1978 Bonds"), the net proceeds of which are being used to defray a portion of the Cost of Construction, as defined in the Jefferson Sale Agreement ("Jefferson Cost of Construction"), of the Jefferson Facilities. Under a Trust Indenture (Pollution) between Jefferson County and Simmons First National Bank of Pine Bluff, as Trustee ("Jefferson Trustee"), dated as of October 1, 1977, as amended ("Jefferson Indenture"), Jefferson County issued the Series 1977 Bonds in the aggregate principal amount of $46,000,000 and the Jefferson Series 1978 Bonds in the aggregate principal amount of $9,200,000, which amounts were then estimated to be sufficient to cover the Jefferson Cost of Construction.

It has been determined, however, that the proceeds of the Series 1977 Bonds and the Jefferson Series 1978 Bonds will not be sufficient to cover the total Jefferson Cost of Construction. Consequently, to cover additional Jefferson Cost of Construction, Jefferson County proposes to issue up to an additional $20,000,000 principal amount of its Pollution Control Revenue Bonds, Series 1980 (Arkansas Power & Light Company Project) ("Jefferson Series 1980 Bonds") pursuant to a Second Supplemental Trust Indenture (Pollution) to the Jefferson Indenture ("1980 Jefferson Supplemental Indenture"), and Arkansas proposes to enter into the 1980 Jefferson Supplemental Agreement to provide for additional payments of purchase price, together with interest thereon, for the Jefferson Facilities sufficient (together with other moneys held by the Jefferson Trustee under the Jefferson Indenture, as to be amended, and available therefor) to pay the principal of, and interest and premium, if any on the Jefferson Series 1980 Bonds, as the same become due and payable.

Arkansas will have options to prepay all, or any portion of, the additional purchase price, together with interest thereon, of the Jefferson Facilities, on the terms and as provided in the Jefferson Sale Agreement, as to be amended.

It is intended that the Jefferson Series 1980 Bonds will be issued as either serial bonds ("Jefferson Serial Bonds") or term bonds ("Jefferson Term Bonds"), or a combination thereof. The Jefferson Term Bonds, if any, will mature not later that 30 years from the first day of the month in which they are initially issued and will be subject to a mandatory cash sinking fund. The Jefferson Serial Bonds, if any, will mature at various times prior to the maturity of the Jefferson Term Bonds. The effect of the mandatory cash sinking fund of the Jefferson Term Bonds, if any, together with the serial maturities of the Jefferson Serial Bonds, if any, will be calculated to retire no less than 25% of the aggregate principal amount of the Jefferson Series 1980 Bonds prior to the ultimate date of maturity of the Jefferson Series 1980 Bonds.

II. ANO

Arkansas also proposes to enter into a Second Supplemental Installment Sale Agreement ("Pollution") ("1980 Pope Supplemental Agreement") with Pope County, Arkansas, amending and supplementing the Installment Sale Agreement, dated as of September 1, 1976, as previously amended and supplemented ("Pope Sale Agreement"), pursuant to which, among other things, (i) Pope County agreed to sell to Arkansas, subject to the rentention of a lien and security interests, and Arkansas agreed to purchase from Pope County, certain pollution control facilities at ANO ("Pope Facilities") for a purchase price, together with interest thereon, payable in semi-annual installments over a term of years and (ii) Pope County agreed to issue its Pollution Control Revenue bonds, Series 1976 ("Series 1976 Bonds") and its Pollution Control Revenue Bonds, Series 1978 ("Pope Series 1978 Bonds"), the net proceeds of which are being used to defray a portion of the Cost of Construction as defined in the Pope Sale Agreement ("Pope Cost of Construction") of the Pope Facilities. Under a Trust Indenture between Pope County and The First National Bank in Little Rock, as Trustee ("Pope Trustee"), dated as of September 1, 1976, as amended ("Pope Indenture"), Pope County issued the Series 1976 Bonds in the aggregate principal amount of $16,000,000 and the Pope Series 1978 Bonds in the aggregate principal amount of $1,900,000, which amounts were then estimated to be sufficient to cover the Pope Cost of Construction.

It has been determined, however, that the proceeds of the Series 1976 Bonds and the Pope Series 1978 Bonds will not be sufficient to cover the total Pope Cost of Construction. Consequently, Pope County proposes to issue, to cover additional Pope Cost of Construction, up to an additional $3,000,000 principal amount of its Pollution Control Revenue Bonds, Series 1980 (Arkansas Power &

Light Company Project) ("Pope Series 1980 Bonds") pursuant to a Second Supplemental Trust Indenture to the Pope Indenture ("1980 Pope Supplemental Indenture"), and Arkansas proposes to enter into the 1980 Pope Supplemental Agreement to provide for additional payments of the purchase price, together with interest thereon, for the Pope Facilities sufficient (together with other moneys held by the Pope Trustee under the Pope Indenture, as to be amended, and available therefor) to pay the principal of, and interest and premium, if any, on, the Pope Series 1980 Bonds, as the same become due and payable.

Arkansas will have options to prepay all, or any portion of, the additional purchase price, together with interest thereon, of the Pope Facilities, on the terms and as provided in the Pope Sale Agreement, as to be amended.

It is intended that the Pope Series 1980 Bonds will be issued as either serial bonds ("Pope Serial Bonds") or term bonds ("Pope Term Bonds"), or a combination thereof. The Pope Term Bonds, if any, will mature not later that 30 years from the first day of the month in which they are initally issued and will be subject to a mandatory cash sinking fund. Pope Serial Bonds, if any, will mature at various times prior to the maturity of the Pope Term Bonds. The effect of the mandatory cash sinking fund of the Pope Term Bonds, if any, together with the serial maturities of the Pope Serial Bonds, if any, will be calculated to retire no less tha 25% of the aggregate principal amount of the Pope Series 1980 Bonds prior to the ultimate date of maturity of the Pope Series 1980 Bonds.

It is contemplated that the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be sold by the respective counties pursuant to underwriting arrangements with Stephens Inc. In accordance with the laws of the State of Arkansas, the interest rate to be borne by the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be fixed by the respective counties. Arkansas will not be a party to the underwriting arrangements; however, the Jefferson Sale Agreement and the Pope Sale Agreement provide that the terms of the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds and their sale by the respective counties shall be satisfactory to the company. Arkansas understands that interest payable on the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be exempt from federal income taxes, and it has been advised that the annual interest rates on obligations, interest on which is so tax exempt, have been and can be expected to be 4% to 5% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

It is stated that Arkansas Public Service Commission and the Tennessee Public Service Commission have taken jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the matters proposed. The fees and expenses incident to the proposed transactions are to be filed by amendent.

Notice is further given that any interested person may, not later than December 16, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36688 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11446; 812-474]

Municipal Fund for Temporary Investment, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Municipal Fund for Temporary Investment, Inc. ("Applicant") Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 1, 1980, and an amendment thereto on November 13, 1980, requesting an order of the Commission, 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 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, according to 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.

Applicant states that it was organized by Shearson Loeb Rhoades Inc. as a companion to two "money-market" funds, and was intended to offer institutions using money market funds the alternative of earning tax-exempt income on the investment of their short-term cash reserves. Applicant further states that it seeks to achieve its investment objective of providing as high a level of current interest income exempt from Federal income taxes as is consistent with relative stability of principal by investing in short-term obligations issued by or on behalf of states, territories and possessions of the United States and the District of Columbia, or their political subdivisions, agencies, instrumentalities or authorities, the interest from which, in the opinion of counsel to the issuer, is exempt from Federal income tax ("Municipal Bonds"). In addition, Applicant states that it does not seek profits through short-term trading but intends to hold its portfolio securities to maturity. According to the application, Applicant may not purchase taxable obligations, and during defensive periods or when suitable investments are not available, it may hold uninvested cash reserves.

Applicant represents that pursuant to an earlier order of the Commission dated December 5, 1979 (Investment Company Act Release No. 10972) it

presently computes its net asset value per share to the nearest one cent on a share value of one dollar using the "penny rounding" method of valuation. As stated in the application, all portfolio securities having more than 60 days to maturity are valued on the basis of available market information, and portfolio securities with remaining maturities of 60 days or less are valued on an amortized cost basis as permitted by the Commission's interpretation of Rule 2a–4 under the Act contained in Investment Company Act Release No. 9786, May 31, 1977 ("Release No. 9786"). The order requested herein would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit its assets to be valued according to the amortized cost valuation method. Applicant states that under the amortized cost valuation method, portfolio securities are valued at cost on the date of acquisition and the difference betweeen cost and the face amount of the instrument is amortized over the maturity of the instrument. For example, Applicant represents that if an instrument is acquired at a discount from its face value, the discount would be amortized to maturity, resulting in Applicant's realizing income in a steady flow of equal increments. Applicant asserts that by valuing its portfolio securities at amortized cost and declaring dividends daily, its net asset value per share will remain constant in the absence of unusual market conditions.

In addition to its request to permit the use of the amortized cost method of valuation, Applicant has filed an application (File No. 812–4469) seeking an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 12(d)(3) of the Act and amending a prior order exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act, to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers, such rights being commonly referred to as "puts." However, in considering the appropriateness of the relief requested in the instant application, the issue of the appropriateness of such puts is not being considered or determined. Applicant states that such "puts," which it terms "Stand-by Commitments," would be acquired for the sole purpose of improving portfolio liquidity. Applicant further states that the acquisition or exercisability of such Stand-by Commitments would not affect the valuation or assumed maturity of its underlying Municipal Bonds and that for purposes of calculating the dollar-weighted average maturity of its portfolio, the Stand-by Commitments would always by valued at zero. A further description of the features of and limitations on such Stand-by Commitments is contained in the above application on file with the Commission.

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 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 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 purpose 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 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and 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. Release No. 9786.

Section 6(c) of the Act provides, in 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.

In support of its request, Applicant submits that it believes that Applicant's shareholders would be unfairly treated if it were forced to price its portfolio instruments in a manner which would produce artificial price and yield volatility for instruments which Applicant expects to hold until maturity. Applicant believes that potential investors in its shares are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost as described above. Applicant further believes that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

Applicant further states that by maintaining a portfolio of high quality money market instruments of short maturities, it believes that it will be possible to provide the required stability to investors. Applicant states that it, with the advice of its Adviser and based on its Adviser's experience, has determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of its investors by reducing the risk of significant volatility in the value of portfolio instruments while at the same time producing a yield on portfolio instruments commensurate with yields available in the short-term, tax-exempt money market.

Applicant further states that its request for exemption is based on its existing and proposed management policies described in this application and its prospectus. Applicant has agreed that the following conditions may be imposed 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 its overall duty of care owed to Applicant's 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 to be adopted by the Board of Directors shall be the following duties and responsibilities:

(a) Review by the Board of Directors, as it deems 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 Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated by it.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material 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 may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding or reducing dividends; or 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 neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 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 include in the minutes of Board of Directors' meetings and will record, maintain and preserve for a period of not less than six year (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. 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 if 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 the 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.[3]

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant represents that prior to changing from the penny-rounding to the amortized cost method of valuation, its Board of Directors will determine in good faith that, in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities. On the basis of the foregoing, Applicant submits that the requested exemptions are 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 12, 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36689 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this obligation, Applicant states that 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 appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) 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 security 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 the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, in fulfilling this condition and subject to the receipt of the exemptive orders requested in Applicant's pending application (File No. 812–4469), the maturity of a portfolio security shall not be considered shortened or otherwise affected by any Stand-by Commitment to which such security is subject, and all Stand-by Commitments held by Applicant shall be valued at zero.

[3] Subject to the receipt of the exemptive orders requested by Applicant in a pending application (File No. 812–4469), Applicant may also acquire Stand-by Commitments with respect to its portfolio securities.

[Rel. No. 11450; 812–4755]

Pacific American Liquid Assets, Inc.; Filing of Application

November 19, 1980.

Notice is hereby given that Pacific American Liquid Assets, Inc., ("Applicant") 707 Wilshire Boulevard, Los Angeles, California 90017, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 27, 1980, requesting an order of the Commission, 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, to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuation. 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 a registration statement on Form N–1 under the Securities Act of 1933 has been filed

with the Commission on September 23, 1980, but has not yet become effective. Applicant represents that it is a "money market" fund, designed as an investment vehicle for investors who desire to place assets in money market investments where the primary considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. Applicant further states that it seeks to provide a means of investing short-term funds where direct purchase of money market instruments may be undesirable or impractical.

According to the application, Applicant's portfolio may be invested exclusively in a variety of the following instruments: marketable securities issued or guaranteed by the United States government or its agencies or instrumentalities; certificates of deposit, including those issued by domestic banks, London branches of domestic banks, and savings and loans and similar associations; bankers' acceptances; repurchase agreements; and high-grade commercial paper. The application states that Applicant's portfolio must consist of obligations maturing within one year from the date of acquisition, and average maturity of all its investments, on a dollar weighted basis, will be 120 days or less.

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 the 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 to 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 and redemption 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 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that 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 filing 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).

Applicant states that experience indicates that two qualities are helpful in attracting investments in a fund such as the Applicant: (1) stability of principal and (2) steady flow of investment income. Applicant asserts that by maintaining a portfolio of high quality money market instruments of short maturities, it can provide these features to investors. According to the application, experience in the management of other funds has shown that, given the nature of Applicant's policies and operations, there will normally be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method. Applicant represents that its board of directors has determined in good faith, in light of the characteristics of the Applicant, that the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicant and reflects fair value of such securities. Accordingly, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision under the Act or 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 expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising the Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, the 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 acount current market conditions and the Applicant's investment objectives, to stabilize the 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 to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems 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 Applicant's $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%, Applicant's board of directors will promptly consider what action, if any, should be initiated.

(c) Where Applicant's board of directors believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material 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; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten the Applicant's average portfolio maturity; withholding dividends; or 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 at the date of acquisition of greater than one year, or (b) maintain a dollar weighted average portfolio maturity in excess of 120 days. In fulfilling this

[1] To fulfill this condition, Applicant will use actual quotations or estimates or market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which 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 furnished by reputable sources.

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.

(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 Applicant's board of directors' considerations 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, if any, to those United States dollar-denominated instruments which Applicant's 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 Applicant's board of directors.

(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.

Notice is further given that any interested person may, not later than December 12, 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 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. 80-36687 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17300; File No. SR-NSCC-80-32]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: Statement of the Terms of Substance of the Proposed Rule Change.

The proposed change to the Rules of National Securities Clearing Corporation ("NSCC") is as follows:

Signature Distribution Service

Rule 17. The Corporation may maintain or participate in one or more services for the purpose of distributing authorized signatures of Members to transfer agents or corporations acting as their own transfer agent to facilitate the acceptance, upon execution, of powers of substitution, signature guarantees and such other similar endorsements as may be incident to the transfer or delivery of securities.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to facilitate the acceptance, upon execution, of endorsements incident to the transfer or delivery of securities without obtaining the guarantee of a third party by NSCC Members who are not participants in a signature guarantee program of another entity.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible by providing a vehicle to assist Members in meeting turn around times.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 16, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36646 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1950]

New Jersey; Declaration of Disaster Loan Area

Atlantic, Cape May, Cumberland and Salem Counties and adjacent counties within the State of New Jersey constitute a disaster area as a result of damage caused by heavy rains, gale force winds, high tides and flooding 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 January 15, 1981, and for economic injury until the close of business on August 14, 1981, at: Small Business Administration, District Office, 970 Broad Street, Room 1635, Newark, New Jersey 07102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 14, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36658 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1915; Amendment No. 1]

Tennessee; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 65101) is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Clay	Drought	6/1/80-8/14/80
Greene	Drought	6/1/80-9/23/80
Henderson	Drought	6/1/80-9/10/80
Henry	Drought	6/28/80-8/28/80
Houston	Drought	6/1/80-8/31/80
Lawrence	Drought	7/1/80-9/23/80
Macon	Drought	7/1/80-8/31/80
Morgan	Drought	6/1/80-8/31/80
Pickett	Drought	5/29/80-9/10/80
Tipton	Drought	6/29/80-8/28/80
Wayne	Drought	6/1/80-9/25/80
Williamson	Drought	6/15/80-8/28/80

and adjacent counties within the State of Tennessee as a result of natural disaster as indicated. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on March 23, 1981, and for economic injury until the close of business on June 23, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 10, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-36657 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Executive Board; Public Meeting

The Small Business Administration Region I Advisory Council Executive Board will hold a public meeting from 1:00 to 4:00 p.m. on Tuesday, December 2, 1980, in the Conference Room, 60 Batterymarch Street, 10th Floor, Boston, Massachusetts, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Albert P. Cardarelli, Regional Advocate, U.S. Small Business Administration, 60 Batterymarch Street, Boston, Massachusetts 02110—(617) 223-4495.

Dated: November 19, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-36770 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective December 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.075% per annum.

Dated: November 19, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 80-36771 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 729]

Certification

In accordance with Section 502B of the Foreign Assistance Act of 1961, as amended (the Act), I have reviewed the international security assistance programs of the United States for the fiscal year 1981 in order to assure that:

(1) all security assistance programs are consistent with the provisions of Section 502B of the Act concerning the promotion and advancement of human rights and the avoidance of United States identification with human rights violations, and

(2) with respect to those countries where human rights conditions give rise to the most serious concerns, the security assistance provided by the United States is warranted in each case by extraordinary circumstances involving the national security interests of the United States.

On the basis of this review, I certify that these security assistance programs are in compliance with the requirements of Section 502B of the Act.

This certification shall be reported to the Congress and published in the **Federal Register** as required by law.

Dated: October 23, 1980.

Warren Christopher,

The Deputy Secretary.

[FR Doc. 80-36730 Filed 11-24-80; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 730]

United States-Spain Joint Committee for Scientific and Technological Cooperation—Postdoctoral Research and Short Term Travel Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360; signed at Madrid January 24, 1976), announces the availability of postdoctoral research grants for U.S. scientific research personnel for the purpose of carrying out research in Spain. The term of the grant will be from six to twelve months. Preference will be given to recent doctorate degree recipients. In addition, short term travel grants will be awarded to qualified U.S. scientists in order that they may travel to Spain to exchange information on

specific research topics or to learn special techniques. This type of grant will have a maximum term of three months and a minimum of one month (30 days).

1. *Scope of Grants*

Grants are available in the following areas of research:

(a) Agriculture.
(b) Natural resources.
(c) Oceanography.
(d) Environment.
(e) Urban and regional planning.
(f) Industrial technology.
(g) Energy.
(h) Biomedical sciences.
(i) Basic sciences.

For postdoctoral research grants, the grant period will begin between September 1, 1981 and January 31, 1982; in special circumstances, the Joint Committee may authorize a grant period to begin at an earlier or later date.

Short term travel grants may begin any time between September 1, 1981 and April 1, 1982.

2. *Requirements*

Applicants must meet the following requirements:

(a) Be a U.S. citizen or be a regular member of the U.S. scientific community.

(b) Possess a Doctoral degree, or have equivalent experience.

(c) Have knowledge of written and spoken Spanish.

(d) Submit proof of acceptance by the Spanish University or research center where the applicant wishes to carry out his/her work.

(e) Not be the recipient of any other financial aid or grant for the same purpose.

3. *Amount and Nature of Grants*

The grant award will include:

(a) Round-trip airfare (economy class) on a U.S. Carrier between the grantee's usual residence and his/her final destination in Spain by the most direct route.

(b) Health and accident insurance in Spain during the grantee's stay on the grant (for post-doctoral grants only).

(c) Subsistence at the rate of $1,000 per month, prorated for shorter periods.

Outbound travel will not be paid for those persons who, upon initiating the grant activity, are already in Spain.

When two grantees are married and reside in the same city in Spain during the period of their grants,the monthly stipend of one of them will be reduced by 50 percent.

4. *Presentation of Applications*

Application forms may be obtained from the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation (Calle Cartagena, 83–85, third floor, Madrid 28, telephone 256.0408), or from Ms. Gloria Gaston-Shapiro, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4330, Department of State, Washington, D.C. 20520. *Three copies of the form and any accompanying documents (with the exception of reference 5—see below) must be submitted to the Executive Secretariat within three months of the date of publishing of this Notice in the* **Federal Register.**

5. *Documents to be presented.*

(a) Application form completed and signed.

(b) Professional résumé.

(c) Description of the planned research.

(d) Written evidence of acceptance as referenced in paragraph 2(d).

(e) Certification of knowledge of Spanish as referenced in paragraph 2(c).

(f) Proof of possession of doctorate degree (or academic transcripts for non-doctorate holders).

(g) Two letters of reference or directed research done by applicant in his/her field. These letters should be submitted directly to the Executive Secretariat by the authors at the same time the grant application is submitted.

6. *Selection*

Applications will be evaluated by a joint United States-Spanish panel appointed by the co-chairmen of the United States-Spain Joint Committee for Scientific and Technological Cooperation.

The Spanish side of the panel may consult with the Comision Asesora de Investigacion Cientifica y Tecnica of the Presidencia del Gobierno.

The panel may request additional information concerning any application and conduct personal interviews with the applicant.

The panel will send to the Joint Committee a list of applicants which it recommends for grants. On the basis of this recommendation, the Joint Committee will make the final award of grants.

7. *Certain Obligations of Grantees*

(a) To conduct his/her activity on the research project in accordance with the practices of the host institution.

(b) To submit to the Executive Secretariat of the Joint Committee on a quarterly basis (or at the end of the stay if the grant period is shorter) a report of the work carried out and the results obtained. This report should be signed by the department head or supervising scientist at the host institution.

8. *Payment Schedule*

The grant stipend will be paid before the start of each quarter after the quarterly report referenced in paragraph 7 is approved. This rule will not apply to the first quarter payment.

9. *Early Termination of Grant*

If a grantee terminates his/her research before expiration of the grant, he/she should immediately notify the Executive Secretariat in writing. The Joint Committee will examine the reasons for the early termination and if it finds the reasons unjustifiable it may require the grantee to reimburse the Joint Committee for the amounts paid to him/her (including the cost of air fare).

Dated: November 14, 1980.

Thomas R. Pickering,

Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 80-36734 Filed 11-24-80; 8:45 am]
BILLING CODE 4710-09-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-300, November 19, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 38939, Dallas-Ft. Worth-Yucatan Service Proceeding. Instructions to the staff. (BIA, OGC)

3. Docket 29044, Amendments to the Board's smoking rule, Part 252. (Memo No. 069, OGC, BCP, BDA)

4. Dockets 33361, 32643 and 32644, *Former Large Irregular Air Service Investigation*, Application of Peninsular Air Transport, Inc. (OGC, BCP)

5. Service of Automatic Market Entry applications. (OGC, BDA)

6. Procedure for designating additional small communities as eligible points under section 419(b). (BDA, OGC, OCCR)

7. EAS-388, Petition for Modification of the Essential Air Service Determination of Lewiston, Idaho/Clarkston, Washington. (Memo No. 077, BDA, OGC, OCCR)

8. Dockets EAS-336 and 338; Appeals of Essential Air Service Determinations for Kingman and Prescott, Arizona. (Memo No. 087, OGC, OCCR, BDA)

9. Dockets EAS-549, EAS-552, and 38140, Ponca City's appeal and Enid's comments on their essential air transportation determinations and Air Midwest's notice of its intention to suspend service at Enid and Ponca City, Oklahoma. (Memo No. 080, OGC, OCCR, BDA)

10. Dockets 38800 and 38802, Republic Airlines' 90-day notices to suspend certain air service at Gadsden, Alabama and Eglin Air Force Base, Florida. Dockets 38799 and 38801, Republic Airlines' applications for exemption authority to suspend service before the expiration of the 90-day notice period. (BDA)

11. Docket 34291, Revised Certificates for Trunk and Local Service Carriers, Petition of the Greensboro-High Point Airport Authority for Review of Staff Action in issuing Order 80-5-41 which, inter alia, de-hyphenated Greensboro-High Point from Winston-Salem. (Memo No. 064, BDA)

12. Docket 20051; Agreements for the Establishment of Airline Scheduling Committees; Petition of New York Air for Declaratory Order or other relief. (BDA)

13. Dockets 38669, EDR-384, 36119, Flying Tiger/Seaboard application for exemption on pick-up and delivery tariffs in foreign air transportation. (Memo No. 076, BDA)

14. Docket 38758, Proposed increase in prepaid ticket advice charge proposed by Western Airlines. (Memo No. 079, BDA)

15. Docket 36497; EDR-387/PSDR-68, NOtice of Proposed Rulemaking to implement competitive pricing for mail transportation by establishing zones of rates within which carriers and Postal Service would be free to contract. (OGC)

16. Docket 34564, ATC agreement amending rules on default declaration by individual carriers (Agreements CAB 27001-A20, 27004-A5 and 28217-A3) and Docket 32705, Motion of Popular Latin Travel Agency to reexamine the ATC agreements on declaration and liability for lost or stolen tickets. (BDA)

17. Proposed rulemaking to replace the requirements of section 402 of the Act for Canadian Charter air taxi operators with a simple registration procedure. (Memo No. 066, BIA, OGC, BDA, BCP, BALJ)

18. Docket 36419, Texas-Alberta-Alaska Case; Docket 38757, Application of Western Air Lines, Inc. to Postpone Inauguration of Service. (BIA, OGC, BALJ)

19. Docket 38775, Application of The Department of International Affairs of the General Administration of Civil Aviation of China d/b/a CAAC for an initial foreign air carrier permit. (BIA, OGC, BALJ)

20. Docket 38728, Cancellation of the foreign air carrier permits held by Air Halifax Limited, Aircadia Limited, Airspan Flight Charter Limited, Canadian Voyageur Airlines Limited, Cross Canada Flights Limited, J.V. Aviation Limited, Leavens Brothers Limited, and Survair Limited. (BIA, OGC)

21. Docket 37951, Application of Pan American World Airways, Inc. to amend its certificate of public convenience and necessity for Route 132 to include Bombay, India. Docket 31934, Application of Pan American World Airways, Inc. for an exemption pursuant to section 416 of the Act to serve Bombay, India. (BIA, OGC, BLJ)

22. Docket 32629, Application of Saudi Arabian Airlines Corporation for renewal of its foreign air carrier permit to carry property only between Saudi Arabia and New York, Houston, Dallas/Ft. Worth. (BIA, OGC, BALJ)

23. Docket 29977, Petition of Transamerica Airlines, Inc. for review of staff action in Order 79-12-205, which granted a blanket Statement of Authorization to various foreign air carriers permitting them to operate off-route charters. (BIA, BDA, OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2151-80 Filed 11-21-80; 3:21 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Tuesday, November 25, 1980.

CHANGES IN THE MEETING: Foreign Traders and Brokers discussion has been changed 2 p.m. on November 25, 1980.

[S-2146-80 Filed 11-21-80; 2:17 p.m.]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission held an emergency closed meeting on Tuesday, November 18, 1980, following the Regular Open Meeting, at 1919 M Street, N.W., Washington, D.C. on the following subject:

Internal Personnel Matters.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: November 19, 1980.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2148-80 Filed 11-21-80; 2:31 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission announced on November 19, 1980, Commission Meeting Agenda Notice (#01823), the deletion of the item

listed below from the list of items scheduled for the November 25th Special Open Meeting. This previously deleted item *will* be considered at this meeting, instead of being rescheduled for the meeting of December 4, 1980.

Agenda, Item Number, and Subject

Common Carrier—4—In re Applications of RCA American Communications, Inc. and Southern Satellite Systems, Inc. under Section 214 for a satellite channel of communication. Before the Commission are Section 214 applications filed by RCA American and Southern Satellite seeking three year authorization of a communication channel via Cable Net I.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this matter.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Federal Communications Commission.
Issued: November 21, 1980.

William J. Tricarico,

Secretary.

[S–2149–80 Filed 11–21–80; 2:31 pm]

BILLING CODE 6712–01–M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 76840, NOVEMBER 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, November 25, 1980.

CHANGE IN THE MEETING: The following item is being added:

Item Number Docket Number and Company

CP–5—CP74–314, El Paso Natural Gas Co., CP76–327, Northwest Pipeline Corp., CP77–526, Sun Oil Co., *et al.*

Kenneth F. Plumb,

Secretary.

[S–2142–80 Filed 11–21–80; 9:08 am]

BILLING CODE 6450–85–M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45, 222, 75414, November 14, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following item has been added to the open meeting: Mutual Capital Certificates.

[S–2144–80 Filed 11–21–80; 1:09 pm]

BILLING CODE 6720–01–M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

November 20, 1980.

TIME AND DATE: 10 a.m., Wednesday, November 26, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1: Penn Allegh Coal Company, Docket No. PENN 81–6–R. (Petition for Discretionary Review; issues include the interpretation of the regulation at 30 CFR § 75.316.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–2147–80 Filed 11–21–80; 2:22 pm]

BILLING CODE 6820–12–M

8

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Monday, December 1, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed changes to the Plans administered under the Federal Reserve System's employee benefits program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

M. Joseph R. Coyne, Assistant to the Board, (202) 462–3204.

Dated: November 21, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–2152–80 Filed 11–21–80; 3:29 pm]

BILLING CODE 6210–01–M

9

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 11:30 a.m.–12:30 p.m.

DATE: December 12, 1980.

PLACE: Mayflower Hotel, Washington, D.C.

STATUS: Closed.

MATTERS TO BE DISSCUSSED: Executive Session (Closed meeting Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS, Area Code 202–653–6252.

Mary Alice Hedge Reszetar,

Associated Director.

November 18, 1980.

[S–2143–80 Filed 11–24–80; 10:30 am]

BILLING CODE 7527–01–M

10

NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 24, (Revised).

STATUS: Public.

MATTERS TO BE CONSIDERED: Tuesday, November 25:

10 a.m.

Discussion of Proposed Rulemaking to Amend 10 CFR 50 Concerning Anticipated Transients Without Scram (ATWS) Events (approximately 1½ hours, public meeting) (additional item).

2 p.m.

Discussion of Instructions to Board on Indian Point Proceeding (approximately 1½ hours, public meeting) (additional item).

Wednesday, November 26:

10 a.m.

Discussion and Vote on Final Rule—10 CFR 60—Disposal of High Level Radioactive Waste in Geologic Repositories—Licensing Procedures (approximately 1 hour, public meeting) (additional item).

2 p.m.

1. Briefing on Environmental Releases at NFS–Erwin and Other Fuel Cycle Plants (approximately 1 hour, public meeting) (as announced).
2. Affirmation Session (approximately 10 minutes, public meeting) (as announced):
   a. Idemnification of Licensees for Offsite Fuel Storage.
   b. Protection of Unclassified Safeguards Information.
   c. Petition for Rulemaking from Public Citizen Litigation Group on Required Levels of Financial Protection.
   d. Reappointment of ACRS Member.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

S–2145–80 Filed 11–21–80; 1:59 pm

BILLING CODE 7590–01–M

11

[OPO401]

PAROLE COMMISSION.

TIME AND DATE: 9:30 a.m.–6 p.m., Thursday, December 11, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commissioner of approximately 15 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, (202) 724–3094.

[S–2150–80 Filed 11–21–80; 3:20 pm]

BILLING CODE 4410–01–M

12

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 November 24, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, November 25, 1980, at 10:00 a.m. An open meeting will be held on Tuesday, November 25, 1980, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. 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 meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Friedman and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 25, 1980, at 10:00 a.m., will be:

Regulatory matter bearing enforcement implications.

Regulatory matter regarding financial institutions.

The subject matter of the open meeting scheduled for Tuesday, November 25, 1980, at 2:30 p.m. will be:

Consideration of whether to approve proposed rule changes submitted by Bradford Securities Processing Services, Inc. and National Securities Clearing Corporation that would establish systems for the automated comparison and clearance of municipal securities transactions. For further information, please contact C. Eston Singletary at (202) 272–2893.

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: Nancy Wojtas at (202) 272–2178.

November 20, 1980.

[S–2139–80 Filed 11–20–80; 1:31 pm]

BILLING CODE 8010–01–M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

45 FR 75417, NOVEMBER 14, 1980.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, November 12, 1980.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, November 20, 1980, following the 2:30 p.m. open meeting:

Access to investigative files by Federal, State, or Self-Regulatory authorities.

Formal order of investigation.

Chapter X proceeding.

Commissioners Loomis, Evans, Friedman, and Thomas determined that Commission business required the above changes and the no earlier notice there of was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marcia MacHarg at (202) 272–2468.

November 20, 1980.

[S–2140–80 Filed 11–20–80; 4:32 pm]

BILLING CODE 8010–01–M

12

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: 8 a.m, December 12, 1980.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 a.m., meeting—Board of Regents:

(1) Swearing-in of New Members; (2) Approval of Minutes, May 24, 1980; (3) Report—Executive Committee Meeting, October 9, 1980; (4) Report—Chairman, Board of Regents; (5) Faculty Appointments; (6) Report—Admissions; (7) Financial Report; (8) Report—Acting President; (9) Report—Dean, School of Medicine—(a) Faculty Recruitment; (b) Student Activities; (c) USUHS Awards; (d) General Procedures & Delegations of the Board of Regents; (e) Revised Appointment, Promotion, and Tenure Document.

New Business.

Scheduled meetings: March 2, 1980.

CONTACT PERSON FOR MORE INFORMATION: Frank M. Reynolds, Executive Secretary of the Board, 202/295–3025.

November 20, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S–2153–80 Filed 11–21–80; 3:39 pm]

BILLING CODE 3810–70–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/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

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

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.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

Just Released

Code of Federal Regulations

Revised as of July 1, 1980

Quantity	Volume	Price	Amount
_____	Title 40—Protection of Environment (Parts 53 to 80)	$7.50	$_____
_____	Title 41—Public Contracts and Property Management (Chapter 102 to End)	7.00	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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Book 2 of 2 Books
Tuesday, November 25, 1980

federal register

Tuesday
November 25, 1980

Part II

Office of Personnel Management

Privacy Act of 1974; Annual Publication of Systems of Records

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Annual Publication of Notices of Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; Annual publication of notices of systems of records.

SUMMARY: The purpose of this notice is to meet the requirement of the Privacy Act of 1974 regarding the annual publication of an agency's notices of systems of records.

COMMENT DATE: Interested parties may submit written comments regarding any of the changed or new routine uses in these notices. To be considered, comments must be received on or before December 26, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation (Room 6429), Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415. Comments received will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Information Division, (202) 254–9790/9793.

SUPPLEMENTARY INFORMATION: With the creation of the Office of Personnel Management (OPM) by Reorganization Plan No. 2 of 1978 (43 FR 36037), it became necessary for OPM to publish notices of the Privacy Act systems of records it maintains. These system notices were published on the following dates:

December 28, 1978 (43 FR 60983);
May 29, 1979 (44 FR 30836);
July 6, 1979 (44 FR 39659);
October 12, 1979 (44 FR 59024);
October 19, 1979 (44 FR 60450); and
October 26, 1979 (44 FR 61702).

The complete text of OPM's system notice also appears in the Privacy Act Issuances–1979 Compilation, Volume IV, page 3154.

Since that time, OPM has published notice of one new system of records and made changes in several of the existing systems. The new system notice appeared in the **Federal Register** of March 28, 1980 (45 FR 20601) and is included in this notice as OPM/CENTRAL–12, Survey Information Records.

Changes appeared in the **Federal Register** on the following dates:

February 26, 1980 (45 FR 12563);
March 28, 1980 (45 FR 20601);
May 2, 1980 (45 FR 29454);
May 6, 1980 (45 FR 29947); and
June 20, 1980 (45 FR 41743).

As a matter of convenience to users and in compliance with the requirement to annually publish notices of systems of records, including the requirements (where changes to the notice have occurred since appearing in the annual compilation) to publish the complete text of the notices that have undergone changes, the complete text of all but one of OPM notices of systems of records appear below. One of OPM's system notices, OPM/GOVT–2, Grievance Records is not being included for the reasons discussed below. In some cases, no changes have been made to the notice and in some cases only slight, administrative changes have occurred, e.g., a change in system manager, location of records, or retention schedule. In several systems, there have been administrative changes to the categories of records section to better describe covered records and to the routine use section of the notice that reflect a rewording of the routine use, the division of one routine use into two or three separate and more detailed routine uses, or the addition of a new routine use. Changes in each of the notices are identified in italics. Interested parties are invited to provide comment on the new or revises routine uses.

Based on agency comments received, OPM has decided to discontinue one Government-wide system of records. The system to be discontinued is OPM/GOVT–2, Grievance Records. This system covers records that result from an employee filed grievance, both under the agency's negotiated and administrative grievance procedures. OPM believes that records under negotiated procedures are under the sole control of the agency and not subject to OPM rules and instructions and, therefore, more appropriately belong in agency internal systems. Although the files created under administrative grievance procedures are prescribed by 5 CFR 771 and OPM may review the agencies' procedures, including a review of individual files, OPM believes that these records should also be part of an agency internal system. As required by 5 CFR 297.406(c) of OPM's Privacy Act regulations, agencies shall designate OPM as a routine user of grievance files. This system notice appears in the May 29, 1979 (44 FR 30836), **Federal Register** and was amended in an October 26, 1979 (44 FR 61702), **Federal Register** notice. By agreement with the Office of Management and Budget, and to allow additional time for agencies to publish internal notices for such records, the system will continue in existence until December 31, 1980, when it will be obsoleted, without further notice. A notice to the effect, rather than the complete text of the system notice, is included in this package.

The Office Management and Budget, in a memorandum to agencies, has decided that where an agency merely modifies the former OPM/GOVT–2, Grievance Records notice, to cover agency grievance records, no Report on New Systems is required. The text of OPM's notices of systems of records appears below.

Office of Personnel Management.

Beverly M. Jones

Issuance System Manager.

OPM/INTERNAL–1

SYSTEM NAME:

Defense Mobilization Emergency Cadre Records.

SYSTEM LOCATION:

Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office of Personnel Management employees who are members of the Defense Mobilization Cadre.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the name, address, telephone number, date of birth, physical description, and private automobile information on each member of the Defense Mobilization Cadre.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Civil Defense Act of 1950 and Executive Order 11490.

PURPOSE(S):

These records serve to identify and register members of the various emergency cadres, both basic and supplemental. The originals and one copy of the records are maintained in the OPM's Mobilization Office files (alphabetically and by cadre) for administrative purposes. The third copy is sent to the OPM Relocation Site for use in granting access to the site in the event cadre members must relocate under emergency conditions. Under emergency conditions, the records are a source of personal data for preparation of Emergency Assignee Indentification Cards, carried by basic cadre members to facilitate necessary travel under

emergency conditions and formation of carpools as might be practical in the event of an emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. 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.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by individual name and emergency cadre.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an emergency cadre member. Expired records are burned.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D. C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURE:

Office employees wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since all record information is provided by the individual employee who is the subject of the record, most record corrections can be handled through established administrative procedures for updating the records. However, Office employees wishing to contest records about them under provisions of the Privacy Act should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual Office employee who is the subject of the record.

PURPOSE(S):

These records are used to process an employee's grievance filed under a negotiated grievance procedure.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be used:

a. By the Department of Labor in carrying out its functions regarding labor management relations in the Federal service.

b. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested in the course of resolving a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

OPM/Internal-2

SYSTEM NAME:

Negotiated Grievance Procedure Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees who file grievances under a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to an employee's grievance filed under procedures established by labor-management negotiations. The records may include information such as: employee's name, social security number, grade, job title, employment history, arbitrator's decision or report, record of appeal to Federal Labor Relation Authority, and a variety of employment and personnel records associated with the grievance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7121, title 5, U.S. Code.

e. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 USC 2904 and 2906.

h. By the Office of Personnel Management in the production of summary descriptive statistics and

analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Records on grievances processed under the negotiated grievance procedure are disposed of three years after closing action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals involved in a negotiated grievance are aware of that fact and have been provided access to the record. They may however, contact the system manager indicated above, or the OPM regional office where the grievance was processed, regarding the existence of such records about them. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth
c. Approximate date of closing of the grievance.
d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals who file a grievance under a negotiated grievance procedure are aware of that fact and have been provided access to the record. However, after the grievance has been closed, an individual may request access to the official copy of the grievance record by writing the appropriate system manager or OPM regional office, as indicated in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth
c. Approximate date of closing of the grievance.
d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the appropriate system manager or OPM regional office indicated in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Approximate date of closing of the grievance.
d. Organization component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained;
b. Testimony of witnesses;
c. Union officials;
d. Office of Personnel Management officials; or
e. Department of Labor, Federal Labor Relations Authority, or arbitration officials involved in the grievance.

OPM/INTERNAL—3

SYSTEM NAME:

Security Office Control Files.

SYSTEM LOCATION:

Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 and OPM Regional Offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Central office and regional employees of the Office of Personnel Management and individuals being considered for possible employment by the Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of disks, cards, and file folders of active, inactive, and pending employees filed alphabetically, containing date of birth, Social Security Number, classification as to position sensitivity, types and dates of investigations, investigative reports, dates and levels of clearances, and names of agencies and the reasons why they were provided clearance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450 and Executive Order 12065.

PURPOSE(S):

These records are used exclusively by OPM Security Officers and the employees of Security Offices for administrative reference in connection with controlling position sensitivity and personnel clearances.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

a. *To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.*

b. *To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.*

c. *To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.*

d. *To disclose information to the security office of an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request for verification of security clearance, to enable Office employees to have access to classified data or areas where their official duties require such access.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored on disks, cards, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name and date of birth of the individuals on whom they are maintained.

SAFEGUARDS:

The disks, cards, and file folders are stored in fire-resistant safes contained within a secured area, in lockable metal file cabinets, or in secured rooms. The disks, cards, and file folders do not leave the security office.

RETENTION AND DISPOSAL:

Most records are retained for five years after the individual leaves the Office and then are disposed of by erasing the disks or burning the cards. Folders containing investigative reports are transferred with the employee when reassigned in OPM or returned to the Office's Division of Personnel Investigations when the individual leaves OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415 for Central office employees. Regional Directors (see list of OPM regional office addresses in the Appendix) for regional office employees.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information applies.

b. The Office's investigative files maintained by the Division of Personnel Investigations.

c. Employment information maintained by the Office's Director of Personnel or regional personnel offices.

d. Officials of the Office of Personnel Management.

OPM/INTERNAL—4

SYSTEM NAME:

Employee Occupational Health Program Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM Mid-Continent Regional Office. (See address of Mid-Continent OPM Regional Office in the Appendix.) Other OPM regional and area office health unit services are provided by other agencies, such as the Public Health Service or the General Services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered are those of the following who have received health services under the Federal Employee Occupational Health Program:

OPM central office:

a. Office of Personnel Management Central Office employees (whether actually employed at 1900 E Street, N.W. or elsewhere in the Washington, D.C. area), who have received health services at the OPM Health Unit.

b. Employees of other organizations located in the OPM Building at 1900 E Street, N.W., who have received health services at the Office of Personnel Management Health Unit. These organizations include the Presidential Committee on White House Fellowships, and the Presidential Committee on Personnel Interchange.

Mid-Continent Regional Office:

a. Mid-Continent regional office employees who have received health services at the Mid-Continent Federal Employee Health Clinic.

b. Employees of other Mid-Continent area Federal installations that participate in the Mid-Continent Federal Employee Health Clinic located at 1520 Market Street, St. Louis, Missouri, who have received health services.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of employee utilization of services provided under the Office's Occupational Health program. These records contain the following information:

a. Medical history and other biographical data on those individuals requesting employee health maintenance physical examinations.

b. Test reports and medical diagnosis based on employee health maintenance physical examinations or health screening program tests (tests for single medical conditions or diseases).

c. History of complaint, diagnosis, and treatment of injuries and illnesses cared for at Health Unit.

d. Vaccination Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, as further defined in OMB Circular No. A–72.

PURPOSE(S):

These records document employee utilization of health services provided under the Office's Occupational Health Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained on cards and in folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual to whom they pertain, and, in the Mid-Continent Federal Employee Health Clinic, by employing agency and the individual's name.

SAFEGUARDS:

These records are maintained in a secured room, with access limited to Health Unit personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of the OPM Central Office Health Unit are maintained up to 6 years from the date of the last entry. Employees are given records at request upon separation; otherwise, records are burned approximately three months after separation.

Records maintained by the Mid-Continent Federal Employee Health Clinic are retained until the employee terminates employment with a participating agency and 5 years have elapsed since the date of last entry. Expired records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

a. For records maintained at the Office's Health Unit in Washington, D.C.: Chief, Medical Division, Compensation Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

b. For records maintained at the Mid-Continent Federal Employee Health Clinic: Regional Director, Office of Personnel Management, Mid-Continent OPM Regional Office. (See regional office address in the Appendix.)

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information pertains.

b. Laboratory reports and test results.

c. OPM Health Unit physicians, nurses and other medical technicians who have examined, tested, or treated the individual.

d. The individual's coworkers or supervisors.

e. The individual's personal physician.

f. Other Federal employee health units.

OPM/INTERNAL—5

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of Personnel, office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, and OPM office where the individual is currently employed, for use by timekeeper, budget and finance, or travel personnel. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains various records relating to pay, leave, and travel. This includes information such as: name, date of birth, social security number, home address, grade, employing organization, timekeeper number,

salary, pay plan, number of hours worked, leave accrual rate, usage, and balance; Civil Service Retirement contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; and travel expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a; 5 U.S.C. 5501 et seq., 5525 et seq., 5701 et seq., and 6301 et seq.; Executive Order 9397.

PURPOSE(S):

These records are used to administer the pay, leave and travel requirements of the Office of Personnel Management. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

b. By the Department of the Treasury to issue checks and U.S. Savings Bonds.

c. By State offices of unemployment compensation in connection with claims filed by former Office employees for unemployment compensation.

d. By Federal Employees' Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

e. To diclose information to the Internal Revenue Service and State and Local tax authorities.

f. To provide officials of labor organizations recognized under 5 U.S.C. Chapter 71 with information as to the identity of Office employees contributing union dues each pay period and the amount of dues withheld from each contributor.

g. To disclose information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

i. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

j. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

k. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

l. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

m. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

n. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

o. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

p. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

q. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206; or as may be authorized by law.*

r. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

s. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

t. *To disclose, annually, pay data to the Social Security Administration and the Department of the Treasury as required.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders and loose leaf binders and on cards and magnetic tapes.

RETRIEVABILITY:

These records are retrieved by the names, Social Security Numbers, or Office of Personnel Management employee identification numbers of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with GSA General Records Schedule 2. Disposal of manual records is by shredding or burning; magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information on them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Office of Personnel Management employment identification number.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must provide the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Office of Personnel Management employment identification number.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Office of Personnel Management employment identification number.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains.

b. Office of Personnel Management officials responsible for pay, leave, and travel requirements.

c. Other official personnel documents of the Office.

OPM/INTERNAL—6

SYSTEM NAME:

Appeal and Administrative Review Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or OPM regional offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to various appeal or administrative review procedures available to OPM employees. These appeals or administrative review procedures include adverse action appeals initiated prior to September 9, 1974 which were processed under the Office's internal appeals system; reconsiderations of acceptable level of competence determinations for within-grade increases; impartial reviews of performance ratings; and internal appeals of position classification decisions. The system also contains records and documentation of the action upon which the appeal or review procedure was based (e.g., 90-day notices of warning of unsatisfactory performance rating).

Note: This system does *not* include:

a. Appeal or complaint records covered by the Merit Systems Protection Board's system of Appeals Records; or

b. *Records for grievances processed under OPM's administrative grievance procedure or under the grievance system negotiated by the Office and a recognized labor organization, which are covered under the OPM/INTERNAL–14 and OPM/INTERNAL–3 systems of records.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 4305, 5115, 5335, 7501, 7512, and Executive Order 10577.

PURPOSE(S):

These records are used to process the various appeals or administrative reviews available to the Office employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CASTEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested in the course of processing an appeal or administrative review procedure, 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.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Section Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Adverse action appeals initiated prior to September 9, 1974 which were processed under the Office's internal appeals system are retained for 7 years after the closing of the case. Other records in the system are maintained for a maximum of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the record. They may, however, contact the system manager indicated above, or the OPM regional office where the action was processed, regarding the existence of such records about them. They must furnish the following information for their records to be located and identified.

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an appeal or administrative review procedure record by contacting the system manager or appropriate OPM regional office as listed in the Appendix. Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the system manager or appropriate OPM regional office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the records pertain.

b. OPM officials involved in the appeal or administrative procedure.

c. Other official personnel records of the Office.

OPM/INTERNAL—7

SYSTEM NAME:

Complaints and Inquiries Records

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 and OPM regional personnel offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current OPM employees about whom complaints or inquiries have been received.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information or correspondence concerning an individual's employment status or conduct while employed by the Office. Examples of these records include: correspondence from Federal employees, Members of Congress, or members of the public alleging misconduct of an OPM employee; miscellaneous debt correspondence received from creditors; and miscellaneous complaints not covered by the Office's formal or informal grievance procedure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

PURPOSE(S):

These records are used to take action on or respond to a complaint or inquiry concerning an OPM employee or to counsel the employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an OPM decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Aministration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. 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.

g. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

h. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

i. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on cards and in file folders which are separate from the employee's Official Personnel Folder.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

These records are disposed of upon the transfer or separation of the employee or after 1 year, whichever is earlier. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system contains information about them should contact the system manager or the appropriate OPM reginal personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to their records should contact the system manager or the appropriate OPM regional personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Office employees wishing to request amendment of their records should contact the system manager or the appropriate OPM regional personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual to whom the information pertains.

b. Federal employees, Members of Congress, creditors, or members of the public who submitted the complaint or inquiry.

c. Office officials.

d. Other sources from whom information was requested regarding the complaint or inquiry.

OPM/INTERNAL—8

SYSTEM NAME:

Employee Counseling Services Program Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM Regional Offices.

Note.—*In order to meet the statutory requirement that agencies provide appropriate prevention, treatment, and rehabilitation programs and services for employees with alcohol or drug problems, and to better accommodate establishment of a health service program to promote employees' physical and mental fitness, it may be necessary for an agency to negotiate for use of the counseling staff or another Federal, State, or local government, or private sector agency or institution. This system also covers records on OPM employees that are maintained by another Federal, State, or local government, or private sector agency or institution under such a negotiated agreement.*

When one or more Federal agencies wish to jointly make similar arrangements for employees, in order to ensure compliance with the law and to promote the agency health service program, the Office may, on behalf of the participating agencies, negotiate an agreement that provides such services through another Federal, State or local government, or private sector agency or institution. However, when such is the case, this system will not cover records pertaining to employees of other participating agencies. Such records are considered by the Office as

being part of the employing agency's internal system of records covering agency employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Office employees who have been counseled or othrwise treated regarding alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the diagnosis, recommended treatment, results of treatment, and other notes or records of discussions held with the employee made by the counselor. Additionally, records in this system may include documentation of treatment by a therapist at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301 and 7901, 21 U.S.C. 1101 and 1108, 42 U.S.C. 4541 and 4561, and 44 U.S.C. 3101.

PURPOSE(S):

These records are used to document the nature of the individual's problem and progress made and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Office in connection with the individual.

b. To disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by OPM, all patient identifying information shall be removed).

Note.—*Disclosure of these records beyond officials of the Office having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2. Records pertaining to the physical and mental fitness of employees are, as a matter of Office policy, afforded the same degree of confidentiality and are generally not disclosed.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to employees directly involved in the Office's alcohol and drug abuse prevention function (as that term is defined in 42 CFR Part 2).

RETENTION AND DISPOSAL:

Records are maintained for three to five years after the employee's last contact with the Office's prevention function or until the employee's separation or transfer, whichever comes first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system of records contains information about them should contact the OPM Employee Counseling Services Program coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to records pertaining to them should contact the OPM Employee Counseling Services Program Coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

An individual must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Office employees wishing to request amendment to these records should contact the OPM Employee Counseling Services Program Coordinator who arranged for counseling or treatment.

Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

An individual must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program staff member who records the counseling session, and therapists or institutions providing treatment.

OPM/INTERNAL—9

SYSTEM NAME:

Employee Locator Card Files.

SYSTEM LOCATION:

Personnel and administrative offices of the Office of Personnel Management, 900 E. Street, N.W., Washington, D.C. 20415, and OPM regional and area offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information regarding the organizational location and telephone extension of individual Office employees. The system also contains the home address and telephone number of the employee, and the name, address, and telephone number of an individual to contact in the event of a medical or other emergency involving the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

PURPOSE(S):

Information is collected for this system for use in preparing telephone

directories of the extensions of Office employees. The record also serves to identify an individual for Office officials to contact, should an emergency of a medical or other nature involving the employee occur while the employee is on the job. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

c. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not certain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

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 administrtative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DIPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in secured areas and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an employee of the Office of Personnel Management. Expired records are destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E. Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system contains information about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to records about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.2.01 and 297.203).

CONTESTING RECORD PROCEDURES:

Office employees may amend information in these records at any time by resubmitting the cards. Individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the appropriate OPM administrative officer where employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual who is the subject of the record.

OPM/INTERNAL—10

SYSTEM NAME:

Employee Production Records.

SYSTEM LOCATION:

Central operating offices of the Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415; the OPM Investigations Support Branch, Boyers, Pa. 16018; OPM regional Transcription Centers at the OPM regional office addresses listed in the Appendix; and OPM regional operating offices at the addresses listed in the Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All OPM employees whose position duties require a daily average production rate, e.g., dictating machine transcribers and employees involved in processing retirement claims.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system is comprised of records of daily average production rates for each affected employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records are maintained for purposes of determining eligibility for promotions to grade levels which require certain minimum average production rates. They may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to another Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

b. By the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

c. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in looseleaf notebooks and file folders.

RETRIEVABILITY:

Retirement employee records are retrieved by GS grade and by the name of the individual on whom they are maintained; other records (on transcriber, clerical and other personnel) are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in lockable drawers with access limited to the emloyee's supervisor or other management officials whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 3 years and are destroyed by burning, shredding, or pulp maceration.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415 for production records on employees of that office; Chief, OPM Regional Investigations Divisions (see OPM regional office addresses listed in the Appendix) for Transcription Center records and records on Investigations employees; Director of the OPM Regional Office at the addresses listed in the Appendix, for other production records maintained in the regions; Deputy Associate Director of Personnel Investigations, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, for production records on employees of that office; and appropriate Associate or Assistant OPM Directors, for records maintained in the Central offices other than the Division of Personnel Investigations.

NOTIFICATION PROCEDURE:

Current employees of the Division of Personnel Investigations wishing to inquire whether this system contains records on them should contact the supervisor to whom assigned or the chief of the Investigations Branch where employed.

Other current and all former OPM employees wishing to inquire whether this system contains records on them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

RECORDS ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the appropriate office and individual in the Notification procedure section. Individuals must provide the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the appropriate office and individual set forth in the Notification procedure section. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Records are derived from production counts maintained by the employee and from the employee's supervisor.

OPM/INTERNAL—11

SYSTEM NAME:

Investigator Performance Records.

SYSTEM LOCATION:

These records are located at Office of Personnel Management regional investigations offices, the Investigations Branch Washington and at the duty stations of supervisory investigators. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Current and former Office of Personnel Management investigators (includes investigative records officers and supervisory investigators) and investigative technicians.

CATEGORIES OF RECORDS IN THE SYSTEMS:

These records contain the following kinds of information: Work performance records; their analysis and evaluation; records of training completed and projected training needs; records of counselling; special assignment and travel records; availability and qualifications for special assignments; motor vehicle accident records; authorization for travel, for use of government-owned vehicles, and other special authorizations; commendations, awards, and deficiencies; personal and locator data for locator purposes; salary; records of miscellaneous expenses and mileage; and work progress and production records.

At supervisory locations remote from the Official Personnel Folder, these files may also include the following kinds of records: statements of experience and qualifications; past and present grades; and copies of personnel actions including appointments, reassignments, demotions, details, promotions, transfers, and separations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 4118, 4303, 4506.

PURPOSE(S):

Records are maintained in this system to accomplish the following purposes:

a. The effective management of the Office's investigations program;

b. The proper assignment, transfer, promotion, detail, training, and reassignment of investigators;

c. The completion of required performance ratings and appraisals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By an agency, office, or other establishment in the executive, legislative, or judicial branch of the Federal Government, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

b. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation,

or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

g. To the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. 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.

i. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

j. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, an dto otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

k. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders; locator information may be on file cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are located either in cabinets equipped with drop bar and combination locks; in three-position lock reinforced metal cabinets; or in key lock file cabinets. Access is restricted to the supervisory and management investigative staff or to those employee assigned to act in support of this staff.

RETENTION AND DISPOSAL:

Generally, the record is maintained during the period of the individual's service with the Office's investigations program and is destroyed by burning or shredding one year after separation from the program. Items in an individual's record having continuing uses such as statements of special qualifications, training, or awards, are maintained for the life of the file. Items reflecting the individual's status, such as salary or special authorizations, are maintained while timely. Items that report appraisals and evaluations, information supporting those appraisals and similar items are retained for two years plus the current year and are then destroyed. Records of routine travel, expenses, and work progress are destroyed after six months.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system contains a record on them should contact the appropriate office as follows:

a. Current OPM non-supervisory investigators should contact the supervisory investigator to whom assigned.

b. *Former OPM investigators and current OPM supervisory investigators should contact as appropriate the Chief of Investigations to whom last or currently assigned at the OPM regional offices (see OPM regional office addresses in the Appendix) or the Chief, Investigations Washington Branch, Presidential Building, 6525 Belcrest Road, Suite 600, Hyattsville, Md. 20782, if last or currently employed at that branch.*

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate office and individual set forth in the "Notification procedure" section. Individuals must supply the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

Individuals requesting access must also comply with the Office's Privacy Act regulation regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the appropriate office and individual set forth in the "Notification procedure section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained.

b. Supervisory and other observations of work performance.

c. Official notices of personnel actions.

d. Correspondence from persons with whom the individual has had work contact.

OPM/INTERNAL—12

SYSTEM NAME:

Speaker Resume and Clearance Records.

SYSTEM LOCATION:

Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, and OPM Regional Training Managers. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Faculty members, subject matter experts, consultants, and teachers with whom the Office may contract to deliver training courses or portions thereof.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include resumes, faculty data sheets, and verification of any individual's investigation conducted by OPM's Division of Personnel Investigation (DPI). The records may include name and address(es) of the individual, date and place of birth, date of security clearance, courses taught, with date, location, and amount paid in chronological order. Records maintained centrally by the Office contain only name, date and place of birth, home address, occupation, date of clearance, and the training center or region which requested clearance.

Note.—Any detailed investigative records are maintained by DPI. See the notice for the OPM/CENTRAL–9 system, Personnel Investigations Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4107.

PURPOSE(S):

These records are used to identify and contact potential speakers and instructors of Office of Personnel Management training programs. Piror to issuance of a speaker contract, the speaker clearance file is checked to determine if the individual has been cleared to speak at regional or central office training courses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the surce of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. 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.

i. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as a promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

j. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

k. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained on index cards, or in file folders and binders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are located in lockable metal filing cabinets or in secured rooms with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained as long as the individual is actively utilized in the training program. Clearances are valid for 3 years, and records are reviewed at that time for reclearance. Records on speakers not used during the three years are retained for a maximum of 2 more years, then are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

a. For records maintained centrally: Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Stree, N.W., Washington, D.C. 20415.

b. For records maintained by Regional Training Centers: Manager, Regional Training Center at which individual is being considered for speakership or contract. (See list of OPM regional office addresses in the Appendix.)

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the

following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

Individuals requesting amendment of their records must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information applies.

b. The OPM investigative files maintained by the Personnel Investigations Division.

OPM/INTERNAL—13

SYSTEM NAME:

Motor Vehicle Operator and Accident Report Records.

SYSTEM LOCATION:

Director, Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains documents related to the authorization and issuance to an individual of a Government motor vehicle operator's permit; also included are reports, correspondence, and fiscal documents concerning automobile accidents occurring in a Government owned or leased automobile or in a privately owned vehicle while on official business.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 171 of Title 28, United States Code.

PURPOSE(S):

These records serve to document issuance of a Government motor vehicle operator's permit; accident reports and related documents may be used in claims settlement litigation regarding an accident involving a Government motor vehicle or privately owned vehicle while being used on official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a grant or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose accident report record information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation, the classifying of jobs, or the award of a contract, license, grant, or other benefit.

i. To disclose information to the General Services Administration about accidents involving Government-owned or leased automobiles.

j. To disclose information to insurance carriers about accidents involving privately-owned vehicles.

k. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on indexed application cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Motor vehicle operator records are maintained for three years after the separation of the employee (operator) and are destroyed by shredding. Accident reports are maintained for six years after the date of the report and are destroyed by shredding, except in cases involving litigation. In cases involving litigation, these records are to be maintained for seven years.

SYSTEM MANAGER(S) AND ADDRESS:

a. For motor vehicle operator records: Director, Office of Management, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

b. For accident report records: Office of the General Counsel, Office of

Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. For accident report records: Contact the system manager for these records indicated above;

b. Motor vehicle operator records for current or former OPM Central Office employees: Contact the system manager indicated above;

c. Motor vehicle operator records for current and former OPM Regional employees: Contact the OPM Regional Director of the region in which employed (see list of OPM regional office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate office as follows:

a. For accident report records: Contact the system manager for these records indicated above;

b. Motor vehicle operator records for current or former OPM Central Office employees: Contact the system manager indicated above;

c. Motor vehicle operator records for current and former OPM Regional employees: Contact the OPM Regional Director of the region in which employed (see list of OPM regional office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate office as follows:

a. For accident report records: Contact the system manager for these records indicated above;

b. Motor vehicle operator records for current or former OPM Central Office employees, Office of Personnel Management: Contact the system manager indicated above;

c. Motor vehicle operator records for current and former OPM Regional employees: Contact the OPM Regional Director of the region in which employed (see list of OPM regional office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains.

b. OPM employees and other parties involved in the accident.

c. Witnesses to the accident.

d. Police reports and reports of investigations conducted by OPM investigators.

e. Officials of the Office of Personnel Management and the General Services Administration.

OPM/INTERNAL—14

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

These records are located in the personnel or other designated office, OPM Central and Regional offices (see list of OPM regional office addresses in the Appendix) where the grievance was filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Office employees who have filed grievances, under OPM's administrative grievance procedures in accordance with part 771 of the Office's regulations (5 CFR 771).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by OPM employees under administrative procedures and in accordance with part 771 of the Office's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits. This system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 771.

PURPOSE(S):

These records are used to process grievances submitted by OPM employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

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 a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. By the Office in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Council, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

i. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

j. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

k. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 or 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individual's seeking amendment of their records which have been the subject of a judicial or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of indentify and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

OPM/CENTRAL—1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. For category of records "f," the following OPM regional offices: Northwest, Western, Southeast, Great Lakes, and Mid-Atlantic. (See list of OPM regional office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than that with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under th CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application in connection with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government Retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal

Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of those retirement service history records of employees' service in the Federal government other than that for the agency in which they may presently be employed. It also contains information developed in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees which the Office of Personnel Management administers. Also included are medical records and supporting evidence on those individuals found medically unsuitable for Federal employment. These records contain the following information:

a. Documentation of Federal service subject to the CSR system.

b. Documentation of service credit and refund claims made under the CSR system.

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office of Personnel Management) and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employees Health Benefits Program be reviewed by the Office.

f. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR system, or for compensationers and their survivors under the Office of Workers' Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301, and chapters 83, 87, and 89 of title 5, United States Code; Public Laws 83–598, 84–356, and 86–724; and Executive Order 9397.

PURPOSE(S):

These records provide information and verification on which to base entitlement and computation of Civil Service Retirement and survivors benefits, Federal Employees Health Benefits and enrollments, and Federal Employees Group Life Insurance benefits. These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipient's benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS's Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To disclose to the Federal Employees Group Life Insurance Office information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls and, if so, the type of annuity (employee or survivor, but not retirement or disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954 as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains and who is found by a court or an Office of Personnel Management Medical Officer to be incompetent or under other legal disability information necessary to assure payment of benefits to which the individual is entitled.

i. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant survivor annuitant, or former employee, for the purpose of enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures.

To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence *other* than medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefits program, to the extent necessary to identify the

individual and to identify the type of information requested.

m. To disclose information to the Office of Management and Budget at any state of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee, (2) the issuance of a security clearance, (3) the reporting of an investigation of an employee, (4) the letting of a contract, (5) the classification of a job, or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

s. By the Office of Personnel Management, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Office of Personnel Management specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant or applicant for refund of retirement deductions, if the agency requires that information in order to provide reconsideration in connection with the collection of a debt due the United States.

w. To disclose in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the data subject's last known address.

x. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

y. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

z. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

aa. *To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records relating to a claim for retirement, life insurance, and health benefits are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office as follows (See list of OPM regional office addresses in Appendix):

a. for cases adjudicated in the Rocky-Mountain, Mid-Continent, or Northwest Region, the Northwest Regional Office;

b. for cases adjudicated in the Southwest, Eastern, or New England Region, the system manager; or

c. for cases adjudicated in the Western, Southeast, Great Lakes, or Mid-Atlantic Region, the Regional Office which handled the case.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records in this system should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office, as indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records in this system should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office, as indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. GSA National Personnel Records Center.

d. Federal civilian retirement systems other than the Civil Service Retirement System.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Programs.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Program.

j. The Office of Federal Employees Group Like Insurance.

k. Office of Personnel Management Government-wide system (OPM/GOVT–1) covering Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

OPM/CENTRAL—2

SYSTEM NAME:

Complaints and Inquiries Records.

SYSTEM LOCATION:

Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional offices. (See list of regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees, who have filed complaints or submitted an inquiry about conditions of the agency or agency personnel actions affecting the individuals, e.g., allegations of improper promotion actions, reduction-in-force procedures, or Fair Labor Standards Act (FLSA) procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing and adjudication of a complaint made to the Office under its regulations. The records may include information and documents regarding the actual personnel action of the agency in question and the decision or determination rendered by an agency regarding the issue rasied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Sections 1302, 3502; Executive Orders 9830, 10577, and 11491; and Public Law 93–259.

PURPOSE(S):

The principal purpose for which these records are established is to retain a record of correspondence with an individual, over a complaint or inquiry, as a reference should that individual again contact the office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information is these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency (the Office of Personnel Management) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating an appeal or complaint, to the extent necessary to indentify the individual, inform the source of the purpose(s) of the request, and to indentify the type of information requested.

e. To disclose information to a Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. 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.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

These records are maintained in executive files, in file folders, binders, or on index cards.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

1. Records related to most complaints or inquiries about conditions at an agency or an agency's personnel actions affecting an individual, are maintained for two years after closing action on the complaint.

2. Records related to Fair Labor Standards Act complaints are maintained indefinitely.

3. All records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above, WITH THE FOLLOWING EXCEPTION: Individuals who have filed complaints or inquiries with an OPM regional office should contact that regional office at the address listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

RECORD ACCESS PROCEDURES:

Individuals who have filed a complaint or inquiry about an agency personnel action or about conditions existing in an agency will receive a response and, if necessary, be provided access to any other pertinent record. After a response to a complaint or inquiry has been received, an individual may request access to the offical copy of the correspondence record by writing the system manager or OPM regional office indicated in the Notification procedures section. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their correspondence file records will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the nature of the complaint or inquiry, the identity of the individual, and the response furnished. Individuals must furnish the following information for their records to be located and verified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. *Individual to whom the record pertains.*

b. *Agency and/or Office of Personnel Management.*

c. *Official documents relating to the complaint.*

d. *Related correspondence from organizations or persons.*

OPM/CENTRAL—3

SYSTEM NAME:

Federal Executive Development Program Records.

SYSTEM LOCATION:

Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees at the GS–15 or equivalent level, who applied and were nominated by their agency for the Federal Executive Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain demographic information and background data on the experience, education, awards, and career interests of nominees, their agency recommendations for the Program, and supervisory evaluations. Also included are records of the evaluation process used by the selection panel in choosing the finalists and data on assignments and progress under the Program.

Note.—This system does not include records containing applications and related information on employees who were not nominated by their employing agencies to the Office for the Federal Executive Development Program. These records which never come to the Office, are agency records, and may be published as an agency system of records subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 11315, 12027, and 9397.

PURPOSE(S):

These records are maintained and used by the Office to select final candidates for the Federal Executive Development Program, to arrange the work assignments of those selected, and to track their progress on assignments under the Program. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to individuals responsible for making the final selection of candidates for the Program.

b. To disclose information to agencies in which the selected employee is or will be performing work assignments under the Program.

c. To disclose information to the individual's employing agency regarding his or her nomination, work assignments, progress under the Program, and for necessary personnel administrative purposes (pay matters, personnel actions, etc.).

d. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

h. By the National Archives and Records Service (General Services

Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

When not in use records are kept in locked cabinets. Records are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 5 years. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washingon, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

An Individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, his or her supervisors and other management officials, the selection panel, or is obtained from agency records.

OPM/CENTRAL—4

SYSTEM NAME:

Executive Assignment System and Executive Inventory Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former incumbents of positions at grades GS–16 through GS–18 under the Executive Assignment System, or current and former incumbents of positions at equivalent levels over which the OPM exercises at least partial approval authority.

b. Current and former incumbents of career or schedule C positions compensated under the Executive Schedule.

c. Current and former incumbents of positions at grades GS–16 through GS–18, or equivalent levels, when the individual noncompetitively acquires status under Civil Service Rule III.

d. In addition to the individuals indicates in "a" above, other current and former employees in the executive branch currently or formerly in grades GS–15 through GS–18 under the General Schedule, or at equivalent pay levels under other salary systems who are not specifically excepted from inventory coverage.

Note.—The principal groups of employees who are excepted from inventory coverage, and thus are not covered by this system, include:

(1) employees in commissioned services systems;

(2) Administrative Law Judges at grade GS–15;

(3) employees of the Panama Canal Company, the Canal Zone Government, the Soldiers' Home, the Federal Reserve Board, TVA, and the White House Office;

(4) employees involved in intelligence matters where the release of personnel information would be detrimental to national security;

(5) foreign nationals employed outside the United States;

(6) employees hired on a consultant, part-time, or intermittent basis;

(7) employees of the United States Postal Service; and,

(8) employees in the Department of Medicine and Surgery, Veterans Administration, appointed under title 38 of the United States Code as physicians, dentist, nurses, podiatrists, and optometrists.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic information including minority data and background data on experience, education, publications, awards, and career interests of employees in the inventory.

b. A record of referral indicating individuals referred and the position and agencies to which the individuals were referred.

c. Information about the qualifications of appointees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 3309, 3313, 3318, 3324, 3325, 3326, 5114, 5311, 5333, 5532, 5723; 10 U.S.C. 1581; P.L. 81–691, P.L. 85–726; and E.O. 11315 and 9397.

PURPOSE(S):

These records are used to assist the Office in carrying out its responsibilities under title 5, United States Code, and the Office Rules and Regulations promulgated thereunder, with regard to the establishment and filling of positions at grades 16 through 18 under the General Schedule, positions under the Executive Schedule, or equivalent levels under other salary systems; and to provide data used in policy formulation, program planning, research studies, and statistical reports. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current or former Federal employees to Federal agencies for vacancies at grades GS–16 through GS–18, or equivalent levels.

b. To refer qualified current or former Federal Employees or retirees to State and local Governments and international organizations for employment consideration.

c. To provide an employing agency with extracts from the records of that agency's employees in the inventory.

d. To provide information required in the annual report to Congress mandated by 5 U.S.C. 5114, regarding positions at GS–16, GS–17, and GS–18 levels, and the incumbents of these positions and by 5 U.S.C. 3104 regarding incumbents of scientific or professional positions.

e. To provide information to a congressional office from the record of an individual in reponse to an inquiry from that congressional office made at the request of that individual.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the national Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. To disclose, in response to a request for discovery of for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. *To disclose information to officials of the Merits Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, and on magnetic tapes, punched cards, and microfiche.

RETRIEVABILITY:

Records are retirieved by the name and social security number of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in lockable metal filing cabinets or automated media, in a secured room, with access limited to those whose official duties require access. Access to minority data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual continues to occupy a covered position and are destroyed five years after they leave Federal service. Manual records are shredded or burned while magnetic disks and tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

An individual requesting amendment must also follow the Office's Privacy

Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual named in the record and his or her employing agency, and is also obtained from official documents of the Office.

OPM/CENTRAL—5

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. Courtesy copies of mobility assignment agreements may be sent to regional offices of the Office of Personnel Management for information purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have completed or are presently on an assignment in a State or local government agency, an educational institution, or an Indian tribal government, or other organizations under the provisions of the Intergovernmental Personnel Act (IPA); or,

b. Current or former State or local government or educational institution employees, employees of Indian tribal governments, or other organizations who have completed or are presently on an assignment in a Federal agency under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the individual's IPA assignment agreement between a Federal agency and a State or local government, educational institution, Indian tribal government, or other organization; biographical and background information about the assignees; and records of interviews with assignee(s) which may be conducted after the IPA assignment has been completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371–3376, and E.O. 11589.

PURPOSE(S):

These records are maintained to document and track mobility assignments (including extensions, modifications, and terminations thereof) made under the Intergovernmental Personnel Act (IPA), and to assure that the provisions of the IPA Grant Program are properly administered. Internally, the Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an Office decision regarding possible termination of an assignment or a grant under the IPA program.

h. 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.

i. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

j. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

k. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSTING OR RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards and in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 5 years from the signing of the agreement. Records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.208).

CONTESTING RECORD PROCEDURES:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendmentt of records (5 CFR 297.201 and 297.203).

RECORD SOURCE CATEGORIES:

Information in these records is provided by the individual subject of the records, by officials in the agencies, educational institutions, Indian tribal governments or other organization where the individual is employed and where the individual is serving on the IPA assignment, or is obtained from agency personnel files and records.

OPM/CENTRAL—6

SYSTEM NAME:

Administrative Law Judge Application Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Administrative Law Judge postions in the Federal service, or who are edmployees or former employees in Administrative Law Judge postiions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the education and training; employment history and earnings; appraisals of past performance; convictions for offenses against the law; results of written tests; appraisals of potential; rating and ranking determinations and appeals of such determinations; honors, awards, or fellowships; and other background and biographical data on persons who have applied for Administrative Law Judge positions in the Federal service, or who are or were employees in Administrative Law Judge positions in the Federal service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1305, 3105, and 3344.

PURPOSE(S):

These records serve as a basis for rating and ranking applicants for Administrative Law Judge positions in the Federal service, for documenting the rating and ranking assigned, for processing an appeal of a rating or ranking determination, and for referring the ranked candidates to Federal agencies for employment consideration. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants to Federal agencies for employment consideration for Administrative Law Judge positions.

b. To refer current and former Administrative Law Judges to Federal agencies for consideration for transfer, reassignment, or reinstatement, as applicable.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing, a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violations of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

g. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

h. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. 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.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards, lists, forms and in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained for 7 years. Expired records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act requirements at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to other, non-exempt records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act requirements regarding amendment of records at 5 U.S.C. 552a(d). The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of other, non-exempt records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information he or she supplied, except for information on vouchers which are:

(1) supplied by references listed by the applicant; or

(2) supplied by other sources whom the Office believes have information relevant to a decision regarding the qualifications, ratings, or ranking of the applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempt to the extent that release of the material to the individual whom the information is about would:

a. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

b. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

For material in this system meeting these criteria, the Office has claimed the (k)(5) exemption from the following provisions of the Act:

a. 5 U.S.C. 552a(c)(3)—This provision concerns providing an accounting of disclosures to the individual whom the records are about;

b. 5 U.S.C. 552a(d)—This provision regards access to an amendment of records.

This system contains testing and examination materials used solely to determine individual qualifications for appointment in the Federal Service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing and examination material and information, when the disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

OPM/CENTRAL—7

SYSTEM NAME:

Litigation and Claims Records.

SECURITY CLASSIFICATION:

No security classification is assigned to the system as a whole; however, items of record within the system may bear a national defense/foreign policy classification of Confidential or Secret.

SYSTEM LOCATION:

Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who file civil actions against the Office, its officials, and employees;

b. Individuals who are parties to actions in which the Government is involved, but in which the Office's role is advisory to another agency;

c. Individuals who file claims with the Office under the Federal Tort Claims Act; and

d. Individuals who make claims under the Military Personnel and Civilian Employees Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following kinds of records: administrative appeals; investigative reports; retirement records; official personnel records; documentation of litigation including complaints, answers, motions, briefs, orders, and decisions; claims and supporting documentation submitted under the Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act, together with correspondence and records of settlement; and final administrative determinations.

AUTHORITY FOR MAINTENANCE OF THE RECORDS:

5 U.S.C. 1301–1308; 28 U.S.C. 2672; 31 U.S.C. 241; and EO 10577.

PURPOSE(S):

These records are maintained to defend the Office against lawsuits and to settle administrative claims brought against the Office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information:

a. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To any source where necessary to obtain information relevant to an Office decision or action involved in one of the purposes for maintenance of the system.

c. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To a Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To the insurance carrier of an employee of, or a claimant against, the Office under the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act in order to determine the proper assignment of any liability.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and, for litigation records, by civil action number.

SAFEGUARDS:

Records are available only to authorized personnel of the General Counsel's office.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains a record about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Description of type of record.

d. Court action number if applicable.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "System exempted from certain provisions of the Act", which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access.

Individuals who wish to obtain access to their records must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Description of type of record.

d. Court action number if applicable.

Individuals requesting access must also comply with the Office's Privacy

Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of this notice titled "System exempted from certain provisions of the Act", which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment.

Review of requests from individuals seeking amendment of their records which have previously been or cold have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or adminstrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individual wishing to request amendment of their records to correct factual errors should contact the appropriate system manager indicated above. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Description of type of record.

d. Court action number if applicable.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identify and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained.

b. Agency officials and records.

c. Records of administrative and court proceedings including statements of witnesses and documents.

d. Law enforcement agencies.

e. Witnesses.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

When litigation occurs, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(k)(1), (2), (3), (5), and (6), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into a litigation file, the appropriate exemption ((k)(1), (2), (3), (5), and (6)) has also been claimed for the material as it appears in this system. The Office of the General Counsel, pursuant to 5 U.S.C. 552a(d)(5), reserves the right to refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

Collection of information from other Office files may be necessary during litigation. Therefore, it is possible that this system may contain the following types of information.

a. Properly classified information, obtained from another Federal agency during the course of an investigation, which pertains to national defense and foreign policy. The Privacy Act, at 5 U.S.C. 552a(k)(1), permits an agency to exempt such materials from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection with the administration of the merit system. The Privacy Act, at 5 U.S.C. 552a(k)(2), permits an agency to exempt such materials from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about, would:

1. impair the effectiveness of the investigative process;

2. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or

3. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. The Privacy Act, at 5 U.S.C. 552a(k)(3), permits an agency to exempt such materials from certain provisions of the Act.

d. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civil service employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about, would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

e. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity of fairness of the testing or examination process.

The Office of Personnel Management has claimed these exemptions from the requirements of 5 U.S.C. 552a(c)(3) and (d). These requirements relate to providing an accounting of disclosures to the individual whom the records are about and access to and amendment of records.

OPM/CENTRAL-8

SYSTEM NAME:

Privacy Act/Freedom of Information Act (PA/FOIA) Case Records.

SYSTEM LOCATION:

a. Offices of the Offfice of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

b. Regional and area offices of the Office of Personnel Management. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with the Office:

a. requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests; and

b. requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves, including:

(1) requests for notification of the existence of records about them;

(2) requests for access to these records;

(3) requests for amendment of these records; and

(4) requests for review of initial denials of such requests for notification, access, and amendment.

Note.—Since these PA/FOIA case records contain inquiries and requests regarding any of the Office's other systems of records subject to the Privacy Act, information about individuals from any of these other systems

may become part of this PA/FOIA Case Records system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests, made by individuals to the Office for:

a. Information under the provisions of the FOI Act (5 U.S.C. 552), including requests for review of initial denials of such requests; and

b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under of the Office's Privacy Act regulations including requests for:

(1) Notification of the existence of records about them;

(2) Access to records about them;

(3) Amendment of records about them;

(4) Review of initial denials of such requests for notification, access, or amendment; and

(5) Requests for an accounting of disclosure of records about them.

AUTHORITY FOR MAINTENANCE OF THEY SYSTEM:

The Privacy Act of 1974 (5 U.S.C. 552a), the Freedom of Information Act, as amended (5 U.S.C. 552), and 5 U.S.C. 301.

PURPOSE(S):

These records are maintained to process individual's requests made under the provisions of the Freedom of Information and Privacy Acts. The records are also used by the Office to prepare its annual reports to OMB and Congress required by the Privacy and Freedom of Information Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to a Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

d. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To disclose information to an agency, subject to law, rule, or regulation enforced by the Office, having been found in violation of such law, rule, or regulation, in order to achieve compliance with Office instructions.

g. To disclose information to Federal agencies (e.g., Department of Justice) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence, for use by the Office in making required determinations under the Freedom of Information Act or the Privacy Act of 1974.

h. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning a Privacy or Freedom of Information Act request.

i. To disclose to the Federal agency involved, an Office decision on an appeal from an initial denial of a request involving Office-controlled records.

j. 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.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency (Office of Personnel Management) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. *To disclose information to officials of the Merit System Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

m. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possibe discrimination complaints in the Federal sector, examination of Federal Affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

n. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practice or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained as a paper copy of correspondence in file folders, binders, and on index cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and year of the request.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

These records will be disposed of 5 years after the date of final office action on the case. Records are destroyed by shredding, burning, or the equivalent.

SYSTEM MANAGER(S) AND ADDRESS:

The appropriate Associate or Assistant Director, or Regional Director, Office of Personnel Management, is system manager for Privacy Act/Freedom of Information Case Records maintained in that office. Associate and Assistant Director's Offices are located at: Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 10415. For regional offices, see the list of OPM regional office addresses in the Appendix.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate office or region where their original

Privacy Act or Freedom of Information Act requests were sent, or from where they received responses to such request. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

RECORD ACCESS PROCEDURES:

Material from other Office systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, explains, the exemptions for this system. Individuals wishing to request access to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent, or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 or 297.203).

CONTESTING RECORD PROCEDURES:

Material from other Office systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, explains the exemptions for this system. Individuals wishing to request amendment to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent, or from which they received responses to such requests. Individuals must funish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 or 297.208).

Note.—The amendment provisions for this system are not intended to permit an individual a second opportunity to request amendment of a record which was the subject of the initial Privacy Act amendment request which created the record in this system. That is, after an individual has requested amendment of a specific record in an office system under provisions of the Privacy Act, that specific record may itself become part of this system of Privacy Act/FOI Act Case Records. An individual may not subsequently request amendment of that specific record again, simply because a copy of the record has become part of this second system of Privacy Act/FOI Act Case Records.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from:

a. The individual who is the subject of the records.

b. Office officials who respond to Privacy Act/FOI Act requests.

c. Official personnel documents of the Office, including records from any other Office system of records included in this notice.

d. Other sources whom the Office believes have information pertinent to an Office decision on a Privacy Act or Freedom of Information Act request.

e. Other agencies referring the request to the Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Personnel Management has claimed exemptions for several of its other systems of records under 5 U.S.C. 522a(k)(1), (2), (3), (5), and (6). During the course of a PA/FOIA action, exempt materials from those other systems may become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into these PA/FOIA Case Records, the Office has claimed the same exemptions for the records as they have in the original primary systems of records of which they are a part.

OPM/CENTRAL—9

SYSTEM NAME:

Personnel Investigations Records.

SECURITY CLASSIFICATION:

None for the system. However, items or records within the system may have national defense/foreign policy classifications up through secret.

SYSTEM LOCATION:

a. *Primary system: Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, Washington, D.C. 20415, and the Federal Records Center, Suitland, Maryland.*

b. Decentralized segments: copies of these records may exist temporarily in agencies on current employees, former employees, or on contractor employees. These copies may be located in the personnel security office or other designated offices responsible for suitability, security clearance, access, or hiring determinations on the individual. ("Agency" as used throughout this system is deemed to include legislative and judicial branch establishments as well as those in the Executive Branch).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former employees or applicants for employment in the Federal service, including agency offices of establishments in the executive, legislative, and judicial branches, and in the Govenment of the District of Columbia.

b. American citizens who are current or former employees or applicants for employment with International Organizations.

c. Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, experts, instructors, and consultants to Federal programs.

d. Individuals considered for assignment as representatives of the Federal Government in volunteer programs.

e. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in Federal programs under a co-operative assignment or under a similar agreement.

f. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in matters related to the administration of the merit system.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for violations against the law; reports of interviews with present and former supervisors, coworkers, associates, educators, etc.; reports about the qualifications of an individual for a specific position and correspondence files and index cards relating to adjudication matters; reports of

inquiries with law enforcement agencies, employers, educational institutions attended; reports of action after OPM or FBI Section 8(d) Full Field Investigation; Notices of Security Investigation; and other information developed from the above.

Note.—This system does not include those agency records of a personnel investigative nature that do not come to the Office of Personnel Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authorities for maintenance of the system are indicated below:

a. Section 2, Civil Service Act of 1883—original authority.

b. Title 5, CFR Part 5.

c. Sections 1303, 1304, and 3301, title 5, U.S.C.

d. Sections 7, 8(b), 8(c), 9(a), 9(c), and 14 of Executive Order 10450.

e. Section 7701, title 5, U.S.C. (formerly Section 14 of the Veterans Preference Act of 1944, as amended).

f. Public Law 92–261 and 5 CFR 713.216 and 713.220.

g. Section 2165, title 42, U.S.C. (formerly the Atomic Energy Act of 1954, as amended).

h. Section 2585, title 22, U.S.C. (formerly P.L. 87–297).

i. Executive Order 10422, as amended.

j. Executive Order 9397.

k. Section 1434, title 22, U.S.C. (formerly P.L. 80–402).

l. *Section 686, title 31, U.S.C.*

m. *Section 2455, title 42, U.S.C. (formerly P.L. 85–568).*

n. *P.L. 82–298.*

o. *Section 1874(c), title 42, U.S.C. (former section 15(c), National Science Foundation Act of 1950 as amended).*

p. *Section 2519, title 22, U.S.C. (formerly P.L. 87–293).*

q. In addition to the provisions cited above, there are various acts of Congress that contain implied authority for the Office to investigate, such as laws prohibiting the purchase and sale of office, holding of two offices, conspiracy and other prohibitory statutes.

PURPOSE(S):

The purposes of this system are:

a. To provide investigatory information for determinations concerning compliance with Federal personnel regulations and for individual personnel determinations including suitability and fitness for Federal employment, access and security clearances, evaluations of qualifications, loyalty to the U.S., and evaluations of qualifications and suitability for performance of contractual services for the U.S. Government;

b. To document such determinations;

c. To provide information necessary for the scheduling and conduct of the required investigations;

d. To otherwise comply with mandates and Executive orders; and

e. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

These records and information in these records may be used in disclosing information:

a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, having an interest in the individual for employment purposes, including a security clearance or access determination, and the need to evaluate qualifications, suitability, and loyalty to the United States Government.

b. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, when such agency, office, or establishment conducts an investigation of the individual for the purpose of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.

c. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, having the responsibility to grant clearances, make a determination regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

d. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.

e. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

f. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To an agency, office, or other establishment in the executive, legislative, or judicial branches of the Federal Government, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

h. To Federal agencies as a data source for management information through the production of summary descriptive statistics and analytical studies in support of the functions for which the records are maintained or for related studies.

i. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

j. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

k. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

l. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

m. To respond to a request for discovery or for appearance of a witness, when relevant to the subject matter involved in a pending judicial or administrative proceeding.

n. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as*

promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

o. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employmnent programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

p. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on index cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Folders are maintained in a room with a manipulation-proof combination lock and an intrusion alarm system; or in metal file cabinets secured by three position combination locks. The index to the system and those records which are maintained on index cards are contained in covered and locked rotary Wheeldex machines. All employees are required to have an appropriate security clearance before they are allowed access to the records.

RETENTION AND DISPOSAL:

a. Index cards which show the existence of the file folder record, and the files in folders, are retained for 20 years plus the current year from the date of the most recent investigative activity. Other index cards which show no investigative record other than the completion of a clear National Agency Check or a clear National Agency Check and Inquiry, and where no investigative file folder exists, are retained for two years plus the current year.

b. Reports of action after OPM or FBI section 8(d) Full Field investigation are retained for the life of the investigative file.

c. Notices of Security Investigations are retained for 20 years. Records are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above, in writing. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Signature.
e. Any available information regarding the type of record involved.
f. The category of covered individuals under which the requester believes he or she fits.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of material exempted and the reasons for exempting them from access. Individuals wishing to request access to their records should contact the system manager indicated above, in writing. Requests should be directed only to the system manager, whether the record sought is in the primary system or in a decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Signature.
e. Any available information regarding the type of record involved.
f. The category of covered individuals under which the requester believes he or she fits.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of material exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment to their non-exempt records should contact the system manager indicated above, in writing. Requests should be directed only to the system manager, whether the record sought is in the primary system or in a decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Signature.
e. Any available information regarding the type of record involved.
f. The category of covered individuals under which the requester believes he or she fits.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

Note.—Where an agency retains the decentralized copy of the investigative report provided by OPM, requests for access to or amendment of such reports will be forwarded to the system manager for processing.

RECORD SOURCE CATEGORIES:

Information contained in the system was obtained from the following categories of sources:

a. Applications and other personnel and security forms furnished by the individual.
b. Investigative and other record material furnished by Federal agencies.
c. Notices of personnel actions furnished by Federal agencies.
d. By personnel investigation or written inquiry from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system may contain the following types of information:

a. Properly classified information, obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy. The Privacy Act, at 5 U.S.C. 552a(k)(1), permits an agency to exempt such materials from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection

with the administration of the merit system. The Privacy Act, at 5 U.S.C. 552a(k)(2), permits an agency to exempt such material from certain provisions of the Act. Applications of exemption (k)(2) may be necessary to preclude the data subject's access to and amendment of the record.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the U.S. Code. The Privacy Act at 5 U.S.C. 552a(k)(3), permits an agency to exempt such material from certain provisions of the Act.

d. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

e. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

The Office of Personnel Management has claimed these exemptions from the requirements of 5 U.S.C. 552a(c)(3) and (d). These requirements relate to providing an accounting of disclosures to the individual whom the records are about and access to and amendment of records.

OPM/CENTRAL—10

SYSTEM NAME:

Director of Federal Executive Institute Alumni.

SYSTEM LOCATION:

Federal Executive Institute, Office of Personnel Management, Route 29 North, Charlottesville, Va. 22903.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Federal, State, and local government employees (both current and former), international executives, former faculty and staff, and Fellowship students who have attended long term programs at the Federal Executive Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the name, position title, office address and phone number, agency, FEI program attended and, with the approval of the individual, home address and telephone number, of alumni of FEI programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Sections 301 and 4117.

PURPOSE(S):

The Director is used by FEI alumni to maintain contact with other alumni and to provide them with information to continue their educational experiences. Copies of the Directory are made available to FEI alumni to allow them to maintain relationships developed at the Institute in order to continue educational experiences and to promote intergovernmental cooperation. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Federal agencies to assist them in planning for executive development programs.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. *To provide information to the Federal Executive Institute (FEI) Alumni Association for the purpose of mailing association materials to an alumni's home or business address.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In addition to its appearance in the Directory, information will be maintained on FEI mailing lists, on forms used to collect the data, and on automated media.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained. Records may also be retrieved by agency, location, and FEI program.

SAFEGUARDS:

Records kept by FEI officials are maintained in a secured area with access limited to those authorized personnel at FEI whose duties require access. Because home addresses and phone numbers are included in the Directory, distribution of the Directory is limited to FEI Alumni, and the listed routine users. Those users are notified by a notice placed in the Directory not to make it available for commercial purposes. In addition:

a. At the request of the individual, his or her home address and phone number will not be included in the Directory;

b. At the request of the employing agency, information relating to the individual's status (i.e., position title) will be excluded from the Director.

RETENTION AND DISPOSAL:

Obsolete information will be deleted from automated records.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Federal Executive Institute, Office of Personnel Management, Route 29 North, Charlottesville, Va. 22903.

NOTIFICATION PROCEDURE:

All individuals included in the system receive a copy of the Directory. Individuals requiring additional information about their inclusion in the system should contact the system manager named above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

RECORD ACCESS PROCEDURES:

All record information in the system is included in the Directory. Individuals wishing to request access to other forms in the system which contain the same information should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of

identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

All information in the system comes from the individuals to whom the records pertain.

OPM/CENTRAL—11

SYSTEM NAME:

Presidential Management Intern Program Record.

SYSTEM LOCATION:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former interns and students pursuing graduate degrees in public management who have been nominated by their universities for consideration under the Presidential Management Intern Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the covered individuals relating to name, social security number, date of birth, academic background, home address, home telephone number, employment history, veteran preference, and other personal history information needed during the evaluation and selection process. This system will also contain evaluation statements from the nominating universities and confidential information developed during the regional screening process and final panel evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12008 and 9397.

PURPOSE(S):

These records are used by Program personnel for the following reasons:

a. To determine basic program eligibility and to evaluate the nominees in a regional screening process conducted by OPM regional officials with the participation of agency managers, and State and local government representatives;

b. To group the nominees into various categories (finalists, alternates, and non-selectees) and then make a final determination as to those candidates who will be referred to the agencies for employment consideration; and

c. For program evaluation functions to determine the effectiveness of the program and to improve program operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer candidates to Federal agencies for employment consideration.

b. To refer candidates to State and local governments, congressional offices, international organizations, and other public offices with permission of the candidates, for the purpose of employment consideration.

c. To refer interns for consideration for reassignment and promotion within the employing agencies.

d. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel research functions or manpower studies, or to locate individuals for personnel research.

e. To refer pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

f. To request information from a Federal, State, of local agency maintaining civil, criminal, or other information relevant to an agency decision concerning the hiring or retention of a candidate.

g. To provide an educational institution with information on an appointment of a recent graduate to a Federal position at a certain grade level.

h. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

j. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Fedral sector examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose infromation to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on forms, lists, punched cards, and magnetic tape.

RETRIEVABILITY:

Records are indexed by name of nominee, school, State of legal residence, Social Security Number, and any combination of the above.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets and in a computerized system accessible to only those program managers whose official duties necessitate such access. Confidential passwords are required for access to these automated records.

RETENTION AND DISPOSAL:

Automated records are retained for up to ten years. Manual records ared retained for up to five years. Tapes are

erased and manual records are burned or shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E. Street, N.W., Wasington, D.C. 20415.

NOTIFICATION PROCEDURE:

Inquiries, including name, address, and nominating university should be addressed to the system manager named above.

RECORD ACCESS PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 552a(d), regarding access to and amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Current or former Presidential Management Interns or nominees who wish to gain access to their non-exempt records should direct such a request in writing to the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating University.

Individuals must also comply with the Office's Privacy Act Regulations regarding verfication of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 552a(d), regarding access to and amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Current or former Presidential Management Interns or nominees, wishing to request amendment of their non-exempt records should contact the system manager named above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating University.

Individuals must also comply with the Office's Privacy Act Regulations regarding verfication of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of record originates from the individual to whom it applies, nominatig university deans, Federal, State and local officials involved in the screening and selection process, and employing agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records, for any such testing or examination materials in the system.

OPM/CENTRAL—12

SYSTEM NAME:

Survey Information Records

Subsystem A: Assessment of the Impact of the Civil Service Reform Act.

Subsystem B: Federal Employee Attitude Survey.

Subsystem C: Comparative Assessment of Upward Mobility Programs.

SYSTEM LOCATION:

Records in this system may be located at any of the Office of Personnel Management's central or regional offices or with private sector contractors participating in the conduct of the survey.

Subsystem A: Records are retained by the contractors, i.e., University of California at Irvine, University of Michigan, and Case Western Reserve University.

Subsystem B: Records are retained by the Contractor, Westinghouse Learning Corporation Division, Iowa City, Iowa.

Subsystem C: Records are retained by the contractor, the Granville Corporation, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subsystem A: Current and former Federal employees and members of the public who are recipients of Federal services or products.

Subsystem B: Current Federal employees.

Subsystem C: Current and former Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system, both manual and automated, includes:

a. Demographic data, e.g., including but not limited to name, home or business address, age, sex, employment and educational history data, description of present assignment and duties (current Federal employees), and a description of the nature of association with a Federal agency (non-Federal recipients of Federal services and products).

b. Responses to questionnaires that call for specific details regarding the implementation of agency programs and their impact on the respondents' duties, work environment, performance, or other work related issues (current Federal employees) or on the actual manner and method by which services or products are provided as well as any improvement or deterioration in these areas (recipient of services/products).

c. Responses that call for opinions or judgements on the part of respondents concerning their perception on how new procedures have affected agency perfomance, employee moral, mission accomplishment, and service to the public.

d. Self-identification as to race, sex, ethnicity, or handicap where appropriate.

Although it is not possible to foresee all information to be collected, these data elements would constitute what is sought for the majority of surveys conducted. Where the survey seeks significant additional data, the **Federal Register** notice for the survey will identify the specific information to be maintained beyond that identified here.

Subsystem A: This subsystem will contain no additional records beyond those listed in the "Categories of records" section.

Subsystem B: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

Subsystem C: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Office of Personnel Management is authorized to regulate (and thus to survey the impact of those regulations) various aspects of the personnel management practices and policies of Federal agencies under various sections of title 5 of the U.S. Code, including sections 1104, 1302, 3136, 3502, 3595,

4118, 4305, 4315, 4702, 4706, 5115, 5338, 5385, 5405, 6311, 7504, 7514, 8347, 8716, and 8913. Additionally sections, 7105, 7118, and 7132 provide for an Office role in the functions described therein.

Subsystem A: One or more of the authorities cited, above.

Subsystem B: 5 U.S.C. 4702.

Subsystem C: 5 U.S.C. 4702.

PURPOSE(S):

Information in this system will be used to develop statistical reports on agency personnel management practices and policies. Information will also be used to determine the impact of Office regulations in those areas, as well as the impact of changes in the Federal civil service mandated by statute or Executive order. Maintenance of a system of records as defined by the Privacy Act is necessary so that longitudinal surveys of Federal employees and non-Federal recipients of Federal services/products can be made.

Subsystem A: The purpose of this subsystem is to assess the impact of the Civil Service Reform Act on personnel management.

Subsystem B: The purpose of this subsystem is to assess the attitudes of supervisors/managers and senior level executives toward the recent reforms in the civil service system.

Subsystem C: The purpose of this subsystem is to determine and compare the effectiveness of Upward Mobility Programs and to ascertain the perceptions of the value of these programs by participants and their supervisors/managers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

By the Office of Personnel Management or the contractor in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

Subsystem A: None, other than as shown above.

Subsystem B: None, other than as shown above.

Subsystem C: None, other than as shown above.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

For all subsystems, records will be stored as a manual, automated, or hybrid system.

Manual records are maintained in file folders, on questionnaires, lists, and forms. Automated records are maintained in computer processible storage media.

Subsystem A: A hybrid system.

Subsystem B: A hybrid system.

Subsystem C: A hybrid system.

SAFEGUARDS:

For all subsystems, records are to be stored in locked file cabinets or secured rooms. Access to manual or automated records is limited to specially designated OPM or contractor personnel.

Subsystem A: These survey records are available for review only by contractor personnel.

Subsystem B: These survey records are available for review only by contractor personnel.

Subsystem C: These survey records are available for review only by OPM and contractor personnel.

RETENTION AND DISPOSAL:

In each subsystem, individually identifiable information may be destroyed in a relatively short period of time, e.g., as soon as practicable after aggregate statistics are compiled or after any followup request for an individual's voluntary participation in the survey.

Computized records and statistical reports based on the data collected with all identifiers removed may be retained indefinitely. Other records are retained up to one year after completion of the survey.

Manual records are burned or shredded while automated records are erased.

Subsystem A: This subsystem will continue for a period of 4 years and some records will last the duration of the survey.

Subsystem B: the records in this subsystem will be destroyed at the completion of the survey, approximately July 1981.

Subsystem C: The records in this subsystem will be destroyed at the completion of the survey, approximately March 1982.

Note.—Where the Office, in conducting a survey, contracts with non-Federal parties, the contracts shall stipulate agreement to the above procedures on the part of the contractor.

SYSTEM MANAGER(S) AND ADDRESS:

For all subsystems, the system manager is (unless changed in the notice for the subsystem) the Chief, CSRA Evaluation Management Division, Office of Planning and Evaluation, Office of Personnel Management (Room 3305), 1900 E Street NW., Washington, D.C. 20415.

Subsystem A: As shown above.

Subsustem B: As shown above.

Subsystem C: As shown above.

NOTIFICATION PROCEDURE:

For all subsystems, individuals wishing to inquire whether this system of records contains information about them should contact:

a. The OPM office conducting the survey, if known, of the system manager;

b. When the survey is being conducted by a non-Federal contractor, the specific contractor involved; or

c. The office specified in the **Federal Register** notice announcing the subsystem if different from "a." or "b." of this section.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

e. Any additional identifiers as shown in the **Federal Register** announcement of the subsystem.

RECORD ACCESS PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the subsystem, any individuals wishing to request access to their records should contact the OPM sponsoring office, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the

subsystem, individuals wishing to request amendment to their records should contact the OPM sponsoring office conducting the survey, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Unless specified in the Federal Register notice announcing the subsystem, all subsystems obtain information from individual participants of the survey, from Office or agency personnel records, and from labor organizations.

OPM/CENTRAL—13

SYSTEM NAME:

Senior Executive Service Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former appointees in the Senior Executive Service and civil service applicants for such postions whose applications have been submitted to OPM or agencies for a determination of executive (managerial) qualifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic, appointment, and assignment information (e.g., name, date of birth, Social Security Number, race and ethnic designation, title of position, pay rate, and type of appointment);

b. Background data on work experience, educational experience, publications or awards, and career interests;

c. Determinations on nominees for Meritorious and Distinguished Executive ranks;

d. Determinations concerning executive (managerial) qualifications (i.e., Qualification Review Board records);

e. Information relating to participants (current and former) in the sabbatical leave program (e.g., dates of participation and reasons for the leave);

f. Applications from individuals who, within the 90-day period provided for under 5 U.S.C. 3593(b), seek reemployment in the Senior Executive Service;

g. Information concerning the reason(s) why an individual leaves the SES (e.g., to enter private industry, to work for a State government, or removed during probation or after, because of performance); and

h. Information about the recruitment of individuals for SES positions (e.g., recruited from another Federal agency or from outside the Federal service).

Note.—Automated and manual duplicates of records in this system, maintained by agencies for purposes of actual administration of the SES, along with other records agencies have on SES covered individuals are not considered part of this system. Such records are considered general personnel records and are covered by the OPM/GOVT–1, General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Sections 2101a; 3131 through 3136; 3391 through 3397; 3591 through 3595; 4311 through 4315; 4507; 5381 through 5385; 5752; and 7541 through 7543.

PURPOSE(S):

The records are used to: (1) assist the Office in carrying out its responsibilities under title 5, U.S. Code, and Office rules and regulations promulgated thereunder, including the establishment of SES positions by agencies, development of qualification standards for SES positions, establishment and operation of one or more qualifications review boards, establishment of programs to develop candidates for and incumbents of the SES, and development of performance appraisal systems; (2) pursuant to section 415 of the Civil Service Reform Act, assist the Office in meeting its mandate to evaluate the effectiveness of the Senior Executive Service and the manner in which such Service is administered; (3) provide data used in policy formulation, program planning research studies, and required reports regarding the Governmentwide SES program; and (4) locate specified groups of individuals for personnel research (while protecting their individual privacy).

Race and ethnic data are collected for statistical use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current or former Federal employees to Federal agencies for vacancies in the Senior Executive Service.

b. To refer qualified current or former Federal employees or retirees to State and local governments and international organizations for employment consideration.

c. To provide an employing agency with extracts from the records of that agency's employees in the system.

d. To provide information required in the annual report to Congress mandated by 5 U.S.C. 3135 and elsewhere, regarding positions in the SES and the incumbents of these positions.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data.

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. 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.

k. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations.

investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

1. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

n. *To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file folders, and on magnetic disk and tape, punched cards, and microfiche.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individual to whom they pertain.

SAFEGUARDS:

Manual records are maintained in lockable metal filing cabinets or in a secured room with access limited to those whose official duties require access. Access to computerized records is limited to those whose official duties require access. Access to race and ethnic data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual remains in a covered position and for 5 years after they leave Federal service.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual named in the record, his or her employing agency, and is also obtained from official documents of the Office.

OPM/GOVT—1

SYSTEM NAME:

General Personnel Records.

SYSTEM LOCATION:

Records on current Federal employees are located at the Personnel Office or designated office of the local installation of the Department or Agency which currently employs the individual. Records on former Federal employees are located at the National Personnel Records Center, General Services Administration, 111 Winnebago Street, St. Louis, Missouri 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees *as defined in 5 U.S.C. 2105.*

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records include identifying information such as name(s) date of birth, home residence, mailing address, Social Security Number, and home telephone. This system includes contents of the Official Personnel Folder as specified in Federal Personnel Manual Supplement 293–31. Records in this system are:

a. Records reflecting work experience, educational level achieved, and specialized education or training occurring outside of Federal service.

b. Records reflecting Federal service and documenting work experience and specialized education or training received while employed. Such records contain information about: past and present positions held; grades, salaries, and duty station locations; commendations, awards, or other data reflecting special recognition of an employee's performance and supporting documentation; and notices of all personnel actions such as: appointments, transfers, reassignments, details, promotions, demotions, reductions in force, resignations, separations, suspensions, Office approval of disability retirement applications, retirement and removals.

c. Information relating to enrollment or declination of enrollment in the Federal Employees Group Life Insurance Program and Federally sponsored health benefit programs, as well as forms showing designation of beneficiary.

d. Information of a medical nature including records compiled during an agency initiated fitness for duty examination or request for approval of disability retirement. Such medical records are to be retained in separate envelopes from the Official Personnel Folder OPF and include records of medical examinations that are to remain as a permanent record in the OPF (see "Retention and disposal" section below).

Note.—This system does not cover agency dispensary records or records of drug or alcohol abuse counseling or other such counseling records.

e. Information relating to an Intergovernmental Personnel Act assignment of Federal-private exchange program.

Note.—Some of these records may also become part of the OPM/CENTRAL—7 Intergovernmental Personnel Act Assignment Records system.

f. Information relating to participation in an agency Federal Executive or SES Candiate Development Program.

Note.—Some of these records may also become part of the OPM/CENTRAL—5 Federal Executive Development Program Records or OPM/CENTRAL—13 Senior Executive Service Records systems.

g. Records relating to Government sponsored training or participation in an agency's Upward Mobility Program or other personnel programs designed to broaden an employee's work experiences and for purposes of advancement (e.g., an administrative interm program).

h. Information contained in the Central Personnel Date File (CPDF) maintained by the Office and exact representations thereof in agency noted personel information systems. These data elements include many of the above records along with handicap and minority group designator codes. A definitive list of CPDF data elements is contained in Federal Personnel Manual Supplement 292–1.

i.Records connected with the Senior Executive Service, maintained by agencies for use in making decisions affecting incumbents of these positions, e.g., relating to sabbatical leave programs, training, reassignments, and details, that are perhaps unique to the SES and which may or may not be filed in the employee's Official Personnel Folder. These records may also serve as the basis for reports submitted to OPM's Executive Personnel and Management Development Group for purposes of implementing the Office's oversight responsibilties concerning the SES.

j. *Information concerning an employee's activities on behalf of the labor organization representing agency employees, including accounting of official time spent and documentation in support of per diem and travel expenses. (Note: such records may also be retained by an agency payroll office, subject to the agency's internal Privacy Act system for payroll records.)*

k. Performance appraisal records including: appraisal forms and supporting documentation issued under employee (including SES employees) appraisal systems; recommendations for personnel actions; Performance Review Board or Executive Resource Borad records; forms and supporting documentation issued in connection with removal actions; letters of commendation, reprimands, adomishments, cautions, or warnings and supporting documentation; and documents certifying satisfactory completion of probationary periods or recommendations for within grade or merit pay actions.

1. To the extent that the records listed here are also maintained in an agency automated personnel records system, these automated versions of the above records are considered to be covered by this system notice. Record categories beyond those described here and any additional copies of paper documents (expect for performance apprasial related documents maintained by first line supervisors and managers) maintained by agencies are not considered part of this system and must be covered by an agency specific internal system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 3301, 3372, 4118, 4303, 8347, 5 CFR 432 of OPM regulations; and Executive Orders 9397, 9830, and 12107.

PURPOSE(S):

The Official Personnel Folder (OPF) and other general personnel records files are the official repository of the records, reports of personnel actions, and the documents and papers required in connection with these actions effected during an employee's Federal service. The personnel action reports and other documents, some of which are filed as permanent records in the OPF, give legal force and effect to personnel transactions and establish employee rights and benefits under the pertinent laws and regulations governing Federal employment.

These files are maintained by agencies for the Office and in accordance with Office regulations and instructions. The Official Personnel Folder is maintained for the period of the employee's service in the agency and is then transferred to the National Personnel Records Center for storage or, as appropriate, to the next employing agency. Other records are either retained at the agency for various lengths of time in accordance with General Services Administration records schedules or destroyed when they have served their purpose or when the employee leaves the agency. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in the folder are used primarily be agency personnel offices in screening qualifications of employees; determining status, eligibility, and employee's rights and beneifits under pertinent laws and regulations governing Federal employment; computing length of service; and for other information needed in providing personnel services. These records and their automated equivalents may also be used to locate individuals for personnel research.

Temporary documents on the left side of the OPF may lead (or have led) to a formal action, but do not constitute a record of it, nor make a substantial permanent contribution to the employee's record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be used:

a. to disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

b. To disclose information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide college and university officials with information about their students working under the Cooperative Education, Volunteer Service, or other similar programs where necessary to a student's obtaining credit for the experience gained.

c. To disclose information to officials of foreign governments for clearence before a Federal employee is assigned to that country.

d. To disclose information to: the Department of Labor; Veterans Administration, Social Security Administration; Department of Defense; Federal agenices that have special civilian employee retirement programs; or a national, state, county, municipal, or other publicly recognized charitable or Social Security Adminstration agency (e.g., State unemployment compensation agencies), where necessary to adjudicate a claim under the retirement, insurance or health benefits program(s) of the Office of Personnel Management or an agency cited above, or to conduct an analytical study of benefits being paid under such programs.

e. To disclose to the Office of Federal Employees Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

f. To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a

health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination or benefit provisions of such contracts.

g. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

h. To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

i. To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

j. To disclose information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

m. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

o. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

p. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. By the agency maintaining the records or by the Office to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

s. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

t. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

u. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with a psychiatric examination ordered by the agency under:

(1) fitness-for-duty examination procedures; or

(2) agency-filed disability retirement procedures.

v. 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.

w. *To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force.*

x. To disclose specific civil service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

y. To disclose information to the Department of Defense, National Oceanic and Atmospheric Adminstration, United States Public Health Service, and the United States Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of section 5532 of title 5, United States Code.

z. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

aa. *To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

bb. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

cc. To disclose to prospective non-Federal employers, the following information about a current or former Federal employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

(4) When separated, the date and nature of action as shown on the Notification of Personnel Action, Standard Form 50.

dd. *To disclose information on employees of Federal health care facilities to private sector (i.e., non-Federal, State, or local government) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals). Such disclosures will be made only where the disclosing agency determines that it is in the government's best interest (e.g., to assist in the recruiting of staff in the community where the facility operates or to avoid any adverse publicity that may result from a public criticism of the facility's failure to obtain such approval) to obtain accreditation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.*

ee. *To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders, on lists and forms, microfilm and in computer processible storage media.

RETRIEVABILITY:

These records are retrieved by various combinations of name, birth date, social security number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal file cabinets or in secured rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

a. Permanent Records. The Official Personnel Folder (OPF) is retained by the employing agency as long as the individual is employed with that agency. Medical records are kept separate from the OPF while the individual is employed by an agency. When the individual transfers to another Federal agency or to another appointing office, the OPF, with permanent medical records inserted therein in a separate envelope, is sent to that agency or office. Other medical records covered by this system, i.e., fitness for duty examinations, are considered temporary in nature. Such records, when not submitted to the Office for retention in a disability retirement file (or submitted, but the Office does not approve retirement), shall be destroyed no later than six months after closing action on the case or sooner at the discretion of the agency.

Within 90 days after the individual separates from the Federal service, the OPF is sent to the National Personnel Records Center for permanent storage. In the case of a retired employee or one who dies in service, the OPF is sent to the Records Center within 120 days.

b. Other Records. These records are retained for varying periods of time. Generally these records are maintained for a minimum of one year, or until the employee transfers or separates. Letters of caution, warning, admonishment, or for similar disciplinary actions are maintained for a maximum of two years, but they may be disposed of at any time before the end of the two year period when: (1) it is decided through an administrative procedure that the action was unwarranted; (2) management determines that the letter has served its purpose, (i.e., caused improvement in the employee's performance); (3) the head of the agency or designee determines that the letter should be removed; or (4) at the discretion of the issuing authority. Obsolete performance ratings and appraisals are disposed of when a new rating or appraisal is completed, usually on a yearly basis. Some appraisal records are retained for five years (pertaining to an employee in an SES covered position) and some for three years, e.g., in support of a merit pay action.

c. Records contained on computer processible media within the Central Personnel Data File (and in agency automated personnel records) may be retained indefinitely as a basis for longitudinal work history statistical studies.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate OPM or agency office, as follows:

a. Current Federal employees should contact the Personnel Officer or other responsible official (as designated by the employing agency), Department or Agency with which employed, Local Agency Installation, regarding records in this system.

b. Former Federal employees should contact the system manager indicated above, one of the Office's regional or area offices (see list of regional office addresses in the Appendix), or, as explained in the Note below, the National Personnel Records Center (Civilian), 111 Winnebago St., St Louis, Missouri 63118, regarding the records in this system.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate OPM or agency office, as specified in the "notification procedures" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

Note.—An individual who is a former Federal employee may direct a request to the National Personnel Records Center (NPRC) only for a transcript of his or her own employment history. The transcript includes the individual's name; date of birth; Social Security Number; past and present grades, position titles, duty stations, and salaries; and dates of personnel actions.

Under no circumstances shall an individual direct a request for access to copies of records in this system to the NPRC. Though NPRC stores and services some of the

records on former Federal employees in this system, those records remain the property of the Office Personnel Management, and for the access provisons of the Privacy Act, will be handled and processed by the Office.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the appropriate agency (for current employees) or to the system manager indicated above (for former Federal employees). Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendments of records (5 CFR 297.201 and 297.208).

Note.—Under no circumstances shall an individual direct a request for amendment to records in this system to the NPRC. Though NPRC stores and services some of the records on former Federal employees in this system, those records remain the property of the Office of Personnel Management, and for the amendment provisions of the Privacy Act, will be handled and processed by the system manager at the Office.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The Individual on whom the record is maintained.

b. Physicians examining the individual.

c. Educational institutions.

d. Agency officials.

e. Other sources of information for permanent records maintained in an employee's OPF, in accordance with Federal Personnel Manual Chapter 293.

OPM/GOVT—2

SYSTEM NAME:

Grievance records.

Note.—The text of this notice appears in the **Federal Register** of May 29, 1979, (44 FR 30884), as amended by **Federal Register** notice of October 26, 1979 (44 FR 61708), and in the Privacy Act Issuances—1979 Compilation, Volume IV, page 3180. This system will remain operational until December 31, 1980, to allow time for agencies to establish agency specific systems to cover these records, at which time it will be discontinued without further notice.

OPM/GOVT—3

SYSTEM NAME:

Adverse Action Records.

SYSTEM LOCATION:

These records are located in personnel or designated offices in Federal agencies in which the actions were processed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current of former Federal employees (including Senior Executive Service employees) against whom such an action has been proposed or taken in accordance with Parts 752 or 754 of the Office's regulations (5 CFR 752 or 5 CFR 754).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and documents related to the processing of an adverse action. The records include copies of the notice of proposed action; materials relied on by the agency to support the reasons in the notice; replies by the employee; statements of witnesses; hearing notices; reports; and decisions.

Note.—This system does not include records, including the action file itself, compiled when such actions are appealed to the Merit Systems Protection Board (MSPB) or become part of a discrimination complaint record at the Equal Employment Opportunity Commission (EEOC). Such appeal and discrimination complaint file records are covered by the appropriate MSPB or EEOC system of records. Records maintained in connection with actions based on unacceptable performance and taken under 5 CFR 432 are presently covered by the OPM/GOVT–1 General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7504 and 7514.

PURPOSE(S):

These records result from the proposal, processing, and documentation of adverse actions taken by the Office or agencies against agency employees in accordance with Parts 752 or 754 of the regulations (5 CFR 752 and 5 CFR 754).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested in the course of processing an adverse action, appeal, or administrative review procedure, 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.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, or the classifying of jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. By the agency maintaining the records or the Office to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations,*

investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. *To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

m. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Records documenting an adverse action are disposed of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals receiving notice of a proposed adverse action must be provided access to all documents supporting the notice. At any time thereafter, individuals subject to the action will be provided access to the completed record. Individuals should contact the agency personnel or designated office where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals involved in such actions must be provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an adverse action file by contacting the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identify and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identify and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

CSC/GOVT—4

SYSTEM NAME:

Executive Branch Public Financial Disclosure Records.

SYSTEM LOCATION:

Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street, N.W., Washington, D.C. 20419, and designated agency ethics officals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on: The President, Vice President and candidates for those offices; officers and employees, including special Government employees, whose positions are classified at grades GS–16 and above or at an equivalent rate under another pay schedule; officers or employees in a positon determined by the Director of the Office of Government Ethics to be of equal classification to GS–16; Administrative Law Judges; employees in the excepted service in positions which are of a confidential or policymaking nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of 0–7 under section 201 of title 37, United States Code; the Postmaster General, the Deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service, and each office or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); and nominees for positions requiring Senate confirmation. This system includes both former and current employees in these catagories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains: financial information such as salary,

dividends, receipts from the purchase or sale of land, exchange of property, spouse's and children's interest earnings, funds from trust accounts, gifts, reimbursements, interest on property, and compensation for duties performed; information relating to liabilities in excess of $10,000; information about positions as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organizations, labor organizations, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by non-Federal former employers, and participation in prior non-Federal employer welfare and benefit plans; and information about assets placed in trust pending disposal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 95–521, Ethics in Government Act of 1978 as amended.

PURPOSE(S):

These records are maintained to meet the requirements of the Ethics in Government Act of 1978, Public Law 95–521 as amended, regarding the filing of financial status reports and reports concerning certain agreements between the covered individual and any prior private sector employer. Such statements and related records are required to assure compliance with the Act and to preserve and preserve and promote the integrity of public officials and institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose any and all of the information furnished by the reporting official, in accordance with provisions of section 205 of the Ethics in Government Act of 1978, to any requesting person.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulations, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are generally maintained for a period of six years after filing, except when filed by a nominee for an appointment requiring confirmation by the Senate where the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected. In these cases the record is destroyed one year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers are:

1. For records filed directly with the Office of Government Ethics, the system manager is the Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street, N.W., Washington, D.C. 20419;

2. For records filed with designated agency ethics officials or the Secretary concerned, the system manager is: Designated Agency Ethics Officials, Headquarters, Department or Agency, Washington, D.C., (ZIP code); and

3. *For records filed with the Federal Election Commission by candidates for President or Vice-President, the system manager is the Staff Director, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.*

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Department or agency and component with which employed or proposed to be employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Department or agency and component with which employed or proposed to be employed.

Individuals requesting access to information not generally available to the public under the Act, must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate system manager indicated above.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative;

b. Federal officials who review the statements to make conflict of interest determinations;

c. Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.

OPM/GOVT—5

SYSTEM NAME:

Recruiting, Examining, and Placement Records.

SYSTEM LOCATION:

Associate Director for Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional and area offices (see list of OPM regional office addresses in the Appendix), Office of Personnel Management Job Information Centers, and personnel or other designated offices of Federal agencies that are authorized to make appointments and to act for the Office by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied to the Office of Personnel Management or agencies for Federal employment and current and former Federal employees submitting applications for other positions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

In general, all records in this system contain identifying information including: name, date of birth, Social Security Number, and home address. These records pertain to assembled and unassembled examining procedures and contain information related to both competitive examinations and to certain noncompetitive actions such as determinations of time-in-grade restriction waiver, waiver of qualification requirement determination, and variations in regulatory requirements in individual cases. This system includes such records as:

a. Applications for employment that contain information on work and educational experience; convictions for offenses against the law; military service, and indications of specialized training or receipt of awards or honors. These records may also include copies of correspondence between the applicant and the Office or agency.

b. Results of written exams and indications of how information in the application was rated. These records also contain information on the ranking of an applicant, on his/her placement on a list of eligibles, on what certificates applicants' names appeared on an agency's request for Office approval of the agency's objection to an eligible's qualification and OPM's decisions in the matter, on an agency's request for Office approval for the agency to pass over an eligible and OPM's decision in the matter, and on an agency's decision to object/pass over an eligible where the agency has authority to make such decisions under agreement with OPM.

c. Records regarding OPM's final decision regarding an agency's decision to object/pass over an eligible for suitability or medical reasons or where the objection/pass over decision applies to a compensable preference eligible with 30 percent or more disability.

d. Responses to and results of approved personality or similar tests administered by the Office or agency.

e. Records relating to rating appeals filed with the Office or agency.

f. Registration sheets completed by displaced employees or displaced employee control cards and related documents regarding such individuals.

g. Records concerning non-competitive action cases referred to the Office for decision. These files include such records as waiver of time in grade requirements, decision on superior qualification appointments, temporary appointments outside a register, and waiver of requirement to reduce retired pay. Authority for making decisions on many of these actions has also been delegated to agencies. The records retained by the Office on such actions and copies of such files retained by the agency submitting the request to OPM, along with records that agencies maintained as a result of OPM's delegation of authorities are considered part of this system of records.

h. Records retained to support Schedule A appointments of severely phyically handicapped individuals, both retained by OPM and agencies acting under OPM delegated authorities, are part of this system.

i. Agency applicant supply file systems (where the agency retains applications, resumés, and other related records for hard to fill or unique positions, for future consideration), along with any pre-employment vouchers obtained in connection with an agency's processing of an application, are included in this system.

j. Records derived from OPM-developed assessment center exercises.

Note.—To the extent that an agency utilizes an automated medium in connection with maintenance of this system or records, the automated versions of these records are considered covered by this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 4103, 5532, 5533, and 5723; Executive Order 9397.

PURPOSE(S):

The records are used to consider individuals who have applied for positions in the Federal service by making determinations of qualifications including medical qualifications, for positions applied for, and to rate and rank applicants applying for the same or similar positions. They are also used to refer candidates to Federal agencies for employment considerations, including appointment, transfer, reinstatement, reassignment, or promotion. Records derived from OPM-developed assessment center exercises may be used to determine training needs of participants. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants including current and former Federal employees to Federal agencies for employment consideration for employment, transfer, reassignment, reinstatement, or promotion.

b. With the permission of the applicant, to refer applicants to State and local governments, congressional offices, international organizations, and other public offices for employment consideration.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of positions, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of positions, the letting of a contract, or the issuance of 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.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and

clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

h. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

i. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

j. By the agency maintaining the records by the Office to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

n. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, discs, punched cards, microfiche, cards, lists, and forms.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, or Social Security Number of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records in this system are retained for varying lengths of time, ranging from a few months to five years. Most records are retained for a period of one or two years. Some records, such as individual applications, become part of the person's permanent official records when hired, while some records, e.g., non-competitive action case files, are retained for five years. Some records are destroyed be shredding or burning while magentic tapes of disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office which provides examining and rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice title "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to their non-exempt records should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office providing examining and rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of the notice title "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. An individual may contact the agency or an OPM office where his or her application is filed at any time to update qualifications, education, experience, or other data maintained in the system. Such regular administrative updating of records should not be requested under the provisions of the Privacy Act. However, individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office providing examining or rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information the individual supplied, except reports from medical personnel on physical qualifications; results of examination which are made known to applicants; and vouchers supplied by references or other sources which the applicant lists or which are developed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigative materials that are used solely to determine the appropriateness of a request for approval of an objection to an eligible's qualifications for Federal civilian employment or vouchers received during the processing of an application. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such investigative material from certain provisions of the Act, to the extent that release of the material to the individual whom the information is about would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

This system contains testing and examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, where disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C 552a(d), which relate to access to and amendment of records.

The specific materials exempted include but are not limited to the following:

a. *Answer keys.*

b. *Assessment center exercises.*

c. *Assessment center exercise reports.*

d. *Assessor guidance material.*

e. *Assessment center observation reports.*

f. *Assessment center summary reports.*

g. *Item analyses and similar data which contain test keys.*

h. *Ratings given for the purpose of validating examinations.*

i. *Rating schedules, including crediting plans and scoring formulas for other selection procedures.*

j. *Rating sheets.*

k. *Test booklets, including the written instructions for their preparation.*

l. *Test item files.*

m. *Transmutation tables.*

n. *Test answer sheets.*

OPM/GOVT—6

SYSTEM NAME:

Personnel Research and Test Validation Records.

SYSTEM LOCATION:

Personnel Research and Development Center (PRDC), Office of Personnel Management, Room 3H30, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional offices (see list of regional office addresses in the Appendix), and agency personnel offices (or other designated offices) conducting such programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees; applicants for Federal employment; current and former State and local government employees; applicants for State and local government employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information on education and employment history, test scores, responses to test items and questionnaires, interview data, and ratings of supervisors regarding the individuals to whom the records pertain. Additional information (race, national origin, disability status, and background) is collected from applicants for certain examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Sections 1303 and 3301.

PURPOSE(S):

These records are collected, maintained, and used by the Office or agencies for the construction, analysis, and validation of written tests, and for research on and evaluation of personnel-organizational measurement and selection methods. Such research includes studies extending over a period of time (longitudinal studies). Race and national origin data are used by agencies to evaluate the role of examinations in the total employee selection process and by the Office in assessing agency compliance with this and other requirements of the Uniform Guidelines on Employee Selection Procedures. Use of these race and national origin data is limited to such evaluation and oversight projects conducted by the agencies or the Office.

The records also may be used by the Office or employing agencies to locate individuals for personnel research. Data are collected on a project-by-project basis under conditions assuring the confidentiality of the information. No personnel actions or selections are made using these research records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Under normal circumstances, no individually identifiable records will be provided. However, under those unusual circumstances where an individually identifiable record is required, proper safeguards will be maintained to protect the information collected from unwarranted invasion of personal privacy. Such protection must be specified in writing by the requestor and to the satisfaction of the agency official responsible for maintaining the data that the proposed use of the data is in compliance with the letter and spirit of the Privacy Act. Under these circumstances, the routine uses are as follows:

a. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

b. *To furnish personnel records and information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection program, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.*

c. *To furnish information to the Merit Systems Protection Board, including the Office of the Special Counsel, in connection with actions by offices relating to allegations of discriminatory practices on the part of an agency or one of its employees.*

d. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to subject matter involved in a pending judicial or administrative proceeding.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on punched cards, disks, and magnetic tape.

RETRIEVABILITY:

Records are generally maintained by project. Presonal information can be retrieved by name or personal identifier only for certain research projects such as those involving longitudinal studies.

SAFEGUARDS:

Records are kept in locked files in a locked room with access limited to authorized staff. Access to tape, disk, and other files used in data processing will be only by authorized staff.

RETENTION AND DISPOSAL:

Records are retained for two years after completion of the project unless needed in the course of litigation or other administrative actions involving a research or test validation survey. Manual records are destroyed by shreading or burning and magnetic tapes or disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager above, the OPM regional office servicing the State where they are employed (see list of OPM regional office addresses in the Appendix), or their employing agency's personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. If known, the title, time, and /or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

RECORD ACCESS PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to non-exempt records should contact the system manager indicated above, the OMB regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. If known, the title, time, and/or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verifications of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific material in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of any non-exempt records should contact the system manager indicated above, the OPM regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following for their records to be located and identified.

a. Full name.

b. Date of birth.

c. If known, the title, time, and/or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

Individuals requesting amendment must also compy with the Office's Privacy Act regulations regarding verification of identity and amendment of records. (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Individual Federal, State, or local employees or applicants, supervisors, assessment center assessors, agency or Office personnel files and records (e.g., race, sex, national origin, and disability status data from OPM/GOVT–1 and OPM/GOVT–7 systems of records).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 55a(k)(6), permits an agency to exempt all such testing and examination material and information from certain provisions of the Act, when the disclosure of the material would compromise the objectivity of fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

The specific materials exempted include but are not limited to the following:

a. *Answer keys.*

b. *Assessment center exercises.*

c. *Assessment center exercise reports.*

d. *Assessor guidance material.*

e. *Assessment center observation reports.*

f. *Assessment center summary reports.*

g. *Item analyses and similar data which contain test keys.*

h. *Ratings given for the purpose of validating examinations.*

i. *Rating schedules, including crediting plans and scoring formulas for other selection procedures.*

j. *Rating sheets.*

k. *Test booklets, including the written instructions for their preparation.*

l. *Test item files.*

m. *Transmutation tables.*

n. *Test answer sheets.*

OP/MGOVT–7

SYSTEM NAME:

Applicant Race, Sex, National Origin, and Disability Status Records.

SYSTEM LOCATION:

Records in this system may be located in the following offices:

1. Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

2. Office of Affirmative Employment Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

3. OPM Regional Offices (see list of OPM regional office addresses in the Appendix) and any register-holding area offices under the jurisdiction of a regional office; and

4. Agency Personnel, Equal Employment Opportunity, or Federal Equal Opportunity Recruitment Program offices or other designated offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees and individuals who have applied for Federal employment, including:

1. Applicants for examinations administered either by OPM or by agencies.

2. Applicants on registers or in inventories maintained by OPM and subject to its regulations.

3. Applicants for positions in agencies having direct hire authority and using their own examining procedures in compliance with OPM regulations;

4. Applicants whose records are retained in an agency Equal Opportunity Recruitment file (including any file an agency maintains on current employees from under-represented groups); and

5. Applicants (including current and former Federal employees) who apply for vacancies announced under an agency's merit promotion plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include the individual's name, Social Security Number, date of birth, statement of major field of study, type of current or former Federal employment status (e.g., career or temporary), applications showing work and education experience, and race, sex, national origin, and disability status data.

Note.—The race, national origin, and disability status information in this system differs from that which is maintained in the OPM/GOVT–1, General Personnel Records system. In this system, the information is obtained by two alternative methods: (1) use of OPM Form 1386, Background Survey Questionnaire 79–2, where individuals, who may or may not currently be Federal employees, identify themselves as to race and national origin and indicate whether they have a disability; (2) for applicants who are current Federal employees, at the agency's option from the OPM/GOVT–1 system, where race and national origin are recorded by visual observation while disability status is obtained by use of Standard Form 256, Self Identification of Medical Disability, which allows for a description by self identification of the handicap. Further, race and national origin are defined on OPM Form 1386 in accordance with the Department of Commerce's Statistical Policy Directive 15, while the definitions of race and national origin used for the OPM/GOVT–1 system are as shown in FPM Chapter 713, subchapter 3.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7201; Sections 4A, 4B, 15A (1) and (2), 15B(11), and 15D(11), Uniform Guideline on Employee Selection Procedures (1978), 43 FR 38297 *et seq.* (August 25, 1978); 29 CFR 1613.301; and 5 CFR 720.301.

PURPOSE(S):

These records are used by OPM and agencies to:

1. Evaluate personnel/organizational measurement and selection methods;

2. Implement and evaluate agency affirmative employment programs;

3. Implement and evaluate agency Federal Equal Opportunity Recruitment Programs (including establishment of minority recruitment files);

4. Enable the Office to meet its responsibility to assess an agency's implementation of the Federal Equal Opportunity Recruitment Program.

5. Determine adverse impact in the selection process as required by the Uniform Guidelines cited in the "Authority" section above. (See also "Questions and Answers," on those Guidelines published at 44 FR 11996, March 2, 1979); and

6. Locate individuals for personnel research.

Note.—These data are maintained under conditions that ensure that the individual's identification as to race, sex, national origin, or disability status, does not accompany that individual's application nor is otherwise made known when the individual is under consideration by a selecting official.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. To disclose information to the Equal Employment Opportunity Commission (EEOC), in response to its request for use in the conduct of an examination of an agency's compliance with affirmative action plan instructions and the Uniform Guidelines on Employee Selection Procedures (1978), or other requirements imposed on agencies under EEOC authorities promulgated in Reorganization Plan No. 1 of 1978, in connection with agency Equal Employment Opportunity programs.

b. To disclose information to the Merit Systems Protection Board, including the Office of the Special Counsel, in response to its request in connection with the processing of appeals, special studies relating to the civil service and other merit systems in the executive branch, investigations into allegations of prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

c. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose information to a Federal agency in response to its request for use in its Federal Equal Opportunity Recruitment Program, to the extent that the information is relevant and necessary to the agency's efforts in identifying possible sources for minority recruitment.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders, on magnetic tape, and on disks.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individuals on whom they are maintained.

SAFEGUARDS:

Records are retained in lockable metal filing cabinets in a secured room or in a computerized system accessible by confidential passwords issued only to specific personnel.

RETENTION AND DISPOSAL:

Records are generally retained for two years, except when needed to process applications or to prepare adverse impact and related reports, or for as long as an application is still under consideration for selection purposes. Where records are needed in the course of an administrative procedure or litigation they may be maintained until the administrative procedure or

litigation is completed. Manual records are shredded or burned and magnetic tapes or disks are erased.

Note.—Where an agency retains an automated version of any of the records in this system, maintenance of that record beyond the above retention schedules is permitted for historical or statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains after the prescribed destruction date.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Those individuals wishing to inquire if this system contains information about them should contact the system manager listed above, OPM regional offices (see list of OPM regional office addresses in the Appendix) covering the State wherein the application for Federal employment was directly filed with an OPM office, or the Personnel, Equal Employment Opportunity, or Federal Equal Employment Opportunity Recruitment office or other designated office at the agency where they filed an application or where they are employed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the appropriate office shown in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate office shown in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, on Personnel Research Questionnaire 79–1 (OPM Form 1377) or Background Survey Questionnaire 79–2 (OPM Form 1386), or is obtained from other agency or Office records (e.g., race, sex, national origin, and disability status data may be obtained from the OPM/GOVT–1 General Personnel Records system).

OPM/GOVT—8

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests.

SYSTEM LOCATION:

Office of Government Ethics, Office of Personnel Management, 1717 H Street NW., Washington, D.C. 20419 and designated agency ethics offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain Presidential appointees in the Executive Office of the President, the head of each agency, Presidentially appointed full-time members of committees, boards, or commissions and other officers and employees who are required by their agency under Executive Order 11222 and 5 CFR Part 735 to file such statements. The system includes both former and current employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain statements of personal and family holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions of counsel; confirmation material; and other information related to conflict of interest determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

PURPOSE(S):

These records are maintained to meet requirements of Executive Order 11222 regarding the filing of employment and financial interest statements. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive Order and title 18 of the U.S. Code, and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment and financial interests. To enable the Director, Office of Government Ethics, to ensure that these purposes are met, agency maintained records are to be made available to that office on request.

Note.—When an agency is requested to furnish such records to the Director, Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: *The statements and amended statements required by or pursuant to Executive Order 11222, Part IV, are to be held in confidence and no information shall be disclosed except;*

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

c. To disclose information to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

f. 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal file cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 5 years after the date they are filed by the individual. Disposal is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers are:

1. *For records filed directly with the Office of Government Ethics, the system manager is the Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street NW., Washington, D.C. 20419; and*

2. *For records filed with designated agency ethics officials the system manager is: Designated Agency Ethics Official, Headquarters, Department or Agency, Washington, D.C., (ZIP code).*

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate system manager indicated above.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative;

b. Federal officials who review the statements to make conflict of interest determinations.

c. *Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.*

OPM/GOVT—9

SYSTEM NAME:

File on Position Classification Review Requests (Appeals) and Grade and Pay Retention Appeals.

SYSTEM LOCATION:

These records are located at the Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, OPM's regional offices (see list of OPM regional office addresses in the Appendix), agency personnel offices (or other designated offices), and Federal records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have filed requests for review of a position classification decision with Agency Compliance and Evaluation, Office of Personnel Management, an OPM regional office, or with their agency.

b. Current and former Federal employees who have filed a retained grade and rate of pay appeal with Agency Compliance and Evaluation, Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing adjudication of a request for review of a position classification decision or retained grade and rate of pay appeal. The records may include information and documents regarding a personnel action of the agency involved, and the decision or determination rendered by an agency regarding the classifying of a position on whether an employee is to remain in a retained grade and rate of pay category. This system may also include transcripts of agency hearings and statements from agency employees.

Note.— *Agency files created when an employee requests review of a position classification decision, when the review decision is not subsequently forwarded to OPM for antoher review, are also covered by this system notice. If an agency creates a file when its employee submits a grade and pay retention appeal to OPM, that file maintained by the agency is also covered by this notice.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5115 and 5366 of title 5, U.S. Code.

PURPOSE(S):

These records are primarily used to document the processing and adjudication of a request for review of a position classification or a retained grade and rate of pay appeal action. Internally, the Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating an appeal or request for a position classification review to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring, retention, or assignment of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation

of an individual, the classifying of jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the Office of Personnel Management or an agency in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. By the National Archives and Records Service [General Services Administration] in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. 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.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206; or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders and binders and on index cards, magnetic tape, and microfiche.

RETRIEVABILITY:

These records are retrieved by the subject individual's name, and the name of the employing agency of the individual on whom the record is maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to a request for review of a position classification decision and retained rate of pay appeal files are maintained for seven years after closing action on the case. Some records are destroyed by shredding or burning while magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation; Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact:

a. *For records pertaining to grade and pay retention appeals, the system manager shown above or the appropriate OPM regional office;*

b. For records pertaining to requests for review of an agency position classification decision, where the request for review was made only to the Office, the system manager shown above or the OPM regional office, as appropriate. (See list of OPM regional office addresses in the Appendix.)

c. For records pertaining to requests for a position classification review filed with an agency, whether or not a request for a review of the agency decision is filed with the Office, the agency personnel officer or other designated officer.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Agency in which employed when the request for review or appeal was filed and the approximate dates of the closing of the case.

d. Kind of action (e.g., position classification review or retained grade and rate of pay appeal).

RECORD ACCESS PROCEDURES:

Individuals who have filed a position classification review request or a grade and pay retention appeal, must be provided access to the record. However, after the review or appeal has been closed, an individual may request access to the official copy of the record by writing the official indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Agency in which employed when the request for review or appeal was filed and the approximate date of the closing of the case.

c. Kind of action (e.g., position classification review or grade and pay retention appeal).

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request an amendment to their records to correct factual errors should contact the appropriate official indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Agency in which employed when the request for review of appeal was filed and the approximate date of the closing of the case.

c. Kind of action (e.g., position classification review or retained grade and rate of pay appeal).

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. Individual to whom the record pertains.

b. Agency and/or Office records related to the action.

c. Statements from employees or testimony of witnesses.

d. Transcript of hearings.

Appendix

An individual can obtain information regarding the location of systems of records that may contain personal information on him or her by contacting in person or in writing one of the offices indicated below that is nearest to where he or she resides.

Office of Personnel Management

Regional and Area Offices

Southeast Region

Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303

Area Offices

Southerland Building, 806 Governors Dr. S.W., Huntsville, Alabama, 35801

Federal Building, 80 N. Hughey Avenue, Orlando, Florida 32801.

Federal Office Building, 275 Peachtree St., N.E., Atlanta, Georgia 30303.

600 Federal Place, Louisville, Kentucky 40202.

802 N. State St., Jackson, Mississippi 39201.

310 New Bern Ave., Raleigh, North Carolina 27601.

Federal Office Building, 334 Meeting St., Charleston, South Carolina 29403.

100 N. Main St., Memphis, Tennessee 38103.

New England Region

John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109.

Area Offices

Federal Building, 450 Main St., Hartford, Connecticut 06103.

Federal Building, Augusta, Maine 04330.

3 Center Plaza, Boston, Massachusetts 02108.

Federal Building, Portsmouth, New Hampshire 03801.

Federal-Post Office Building, Kennedy Plaza, Providence, Rhode Island 02903.

Federal Building, Burlington, Vermont 05401.

Great Lakes Region

Federal Office Building, 29th Floor, 230 South Dearborn St., Chicago, Illinois 60604.

Area Offices

219 S. Dearborn St., Chicago, Illinois 60604

U.S. Courthouse and Federal Building, 46 E. Ohio St., Indianapolis, Indiana 46204.

477 Michigan Ave., Room 565, Detroit, Michigan 48226.

Federal Building, Room 196, Fort Snelling, Twin Cities, Minnesota 55111.

U.S. Courthouse and Federal Building, Room 507, 200 W. 2nd Street, Dayton, Ohio 45402.

161 W. Wisconsin Ave., Milwaukee, Wisconsin 53203.

Southwest Region

1100 Commerce St., Dallas, Texas 75242.

Area Offices

Federal Building, 610 South St., New Orleans, Louisiana 70130.

421 Gold Ave., S.W. Albuquerque, New Mexico 87102.

210 NW. 6th St., Oklahoma City, Oklahoma 73102.

1100 Commerce St., Room 6B4, Dallas Texas 75242.

643 E. Durango Blvd., San Antonio, Texas 78206.

Rocky Mountain Region

Building 20, Denver Federal Center, Denver, Colorado 80225.

Area Offices

U.S. Post Office Building, 1845 Sherman Street, Denver, Colorado 80203.

130 Neill Ave., Helena, Montana 59601.

657 2nd Ave. North, Fargo, North Dakota 58102.

Federal Building-U.S. Courthouse, Room 201, 515 9th St., Rapid City, South Dakota 57701.

350 S. Main St., Room 484, Salt Lake City, Utah 84101.

1805 Capitol Avenue, P.O. Box 967, Cheyenne, Wyoming 82001.

Eastern Region

New Federal Building, 26 Federal Plaza, New York, New York 10007.

Area Offices

970 Broad St., Newark, New Jersey 07102.

26 Federal Plaza, New York, New York 10007.

U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Syracuse, New York 13202.

U.S. Courthouse and Federal Office Building, Carlos A. Chardon St., Hato Rey, Puerto Rico 00918.

Mid-Atlantic Region

William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, Pennsylvania 19106.

Area Offices

Federal Office Building, 844 King St., Wilmington, Delaware 19801.

Federal Building, Lombard St. and Hopkins Place, Baltimore, Maryland 21201.

William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, Pennsylvania 19106.

Federal Building, 1000 Liberty Ave., Pittsburgh, Pennsylvania 15222.

Atlantic National Bank Building, 415 St. Paul Blvd., Norfolk, Virginia 23510.

Federal Building, 500 Quarrier St., Charleston, West Virginia 25301.

Mid-Continent Region

1256 Federal Building, 1520 Market St., St. Louis, Missouri 63103.

Area Offices

120 S. Market St., Wichita, Kansas 67202.

601 E. 12th St., Kansas City, Missouri 64106.

1520 Market St., St. Louis, Missouri 63103.

Western Region

525 Market Street, San Francisco, California 94105.

Area Offices

522 North Central Ave., Phoenix, Arizona 85004.

845 S. Figueroa Street, 3rd Floor, Los Angeles, California 90017.

650 Capitol Mall, Sacramento, California 95814.

880 Front Street, San Diego, California 92188.

525 Market Street, San Francisco, California 94105.

300 Ala Moana Boulevard, Book 50028, Honolulu, Hawaii 96850.

50 S. Virginia St., Box 3296, Reno, Nevada 89505.

Northwest Region

Federal Building, 26th Floor, 915 Second Avenue, Seattle, Washington 98174.

Area Offices

701 C Street, Box 22, Anchorage, Alaska 99513.

Federal Building, Room 376, 1220 S.W. 3rd St., Portland, Oregon 97204.

Federal Building, 26th Floor, 915 Second Ave., Seattle, Washington 98174.

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federal register

Tuesday
November 25, 1980

Part III

Environmental Protection Agency

Receipt of Seventh Report of the Interagency Testing Committee to the Administrator; Request for Comments on Priority List of Chemicals

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 41006; TSH-FRC 1680-1]

Seventh Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of TSCA, transmitted its Seventh Report to the Administrator of EPA on October 24, 1980. This report, which revises and updates the Committee's priority list of chemicals, adds two chemicals and two chemical categories to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act and deletes one chemical that was icluded on the previous list. The Seventh Report is included in this Notice and the Agency invites interested persons to submit comments on the Report.

DATE: Comments should be submitted by December 26, 1980.

ADDRESS: Send comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20406, Toll Free 800–424–9065; in Washington, D.C. 554–1404.

SUPPLEMENTARY INFORMATION:

Background

Sec. 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Sec. 4(e) of TSCA established an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA for priority consideration for proposing test rules under Sec. 4(a). The Committee may at any one time designate up to 50 of its recommendations for special priority consideration by EPA. Within 12 months of that designation, EPA must initiate rulemaking to require testing or publish in the **Federal Register** its reasons for not doing so.

The Committee's initial recommendations to the priority list, of four substances and six categories of substances, were published in the **Federal Register** of October 12, 1977 (42 FR 55028). EPA's response to the initial recommendations appeared in the **Federal Register** of October 26, 1978, (43 FR 50134). The ITC's revisions to the initial list appeared in the Committee's Second Report and were published in the **Federal Register** of April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the priority list. EPA responded to the Second ITC Report on May 14, 1979 (44 FR 28095). In its Third Report, published in the **Federal Register** of October 30, 1978 (43 FR 50631), the Committee recommended the addition of one chemical substance and two categories of chemical substances to the priority list. In its Fourth Report the Committee recommended the addition of 11 individual chemicals and one category to its priority list, each designated for priority consideration by EPA. The ITC's Fifth Report was received by the Administrator on November 7, 1979. In its Fifth Report, the Committee recommended the addition of two individual chemicals and three categories of chemicals to its priority list, each designated for priority consideration by EPA. The ITC's Sixth Report was received by the Administrator on April 15, 1980. In the Sixth Report the Committee recommended the addition of one category of chemicals to its priority list. The ITC's Seventh Report was received by the Administrator on October 24, 1980.

EPA proposed health effects testing for chloromethane and chlorinated benzenes and tentatively decided not to require health effects testing of acrylamide. Notice of these actions appeared in the **Federal Register** of July 18, 1980 (45 FR 48510). In the notice proposing testing of chloromethane, EPA addressed all of the concerns of the ITC; thus chloromethane has been removed from the ITC Priority List. Acrylamide and the higher and lower chlorinated benzenes remain on the list because the ITC recommended environmental effects testing for these chemicals and EPA has not yet addressed the ITC's environmental testing recommendations.

Public Comments

The ITC's Seventh Report follows. EPA invites interested persons to submit comments on the ITC's new recommendations. The Agency requests comments be submitted no later than December 26, 1980. All comments received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations.

EPA also intends to hold a public meeting concerning the ITC report shortly after the conclusion of the comment period. A notice of the date, time and place of the meeting providing more details concerning its intended scope, will be published in the **Federal Register** at a later date. The meeting is intended to be a scoping conference to provide an early opportunity for the academic community, labor, industry, environmental groups, and the general public to make additional information available to EPA and to raise issues that are significant for a determination as to whether to propose testing.

Comments should bear the identifying notation OPTS–41006 and should be submitted to the Document Control Officer, Room 447, East Tower, Office of Pesticides and Toxic Substances, (TS–793), EPA, 401 M St., SW., Washington, D.C., 20460. All written comments will be available for public inspection in Room 447, East Tower at the same address, between 8:00 a.m. and 4:00 p.m., weekdays, except legal holidays.

Dated: November 13, 1980.

Steven D. Jelinek,

Assistant Administrator for Pesticides and Toxic Substances.

Toxic Substances Control Act, Interagency Testing committee

Member agencies: Council on Environmental Quality, Department of Commerce, Environmental Protection Agency, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Science Foundation, Occupational Safety and Health Administration.

Liaison agencies: Consumer Product Safety Commission, Department of Agriculture, Department of Defense, Department of the Interior, Food and Drug Administration, National Toxicology Program.

October 24, 1980.

The Honorable Douglas M. Costle,
Administator, U.S. Environmental Protection Agency, Washington, DC.

Dear Mr. Costle: I am pleased to present to you the seventh report of the TSCA Interagency Testing Committee. This report meets the statutory requirement under Section 4(e)(1)(B) of TSCA, which stipulates that the Committee shall make revisions in the Priority List, as it determines to be necessary, at least every six months.

In the Committee's seventh report, two chemicals (i.e., benzyl butyl phthalate and butyl glycolyl butyl phthalate) and two categories of chemicals (i.e., alkyltin compounds and fluoroalkenes) are added to the Priority List. Based on your response to

the Committee's earlier designation of chlormethane, this chemical is deleted from the Priority List. Although you have also responded to the Committee's designation of acrylamide and chlorinated benzenes, these chemicals remain on the Priority List for environmental effects testing. As a result of these actions, the Priority List now contains a total of 42 entries.

The Committee hopes that this seventh report is helpful to the EPA in its efforts to control toxic substances.

Sincerely yours,

James M. Sontag,

Chairman.

Seventh Report of the Toxic Substances Control Act Interagency Testing Committee to the Administrator, Environmental Protection Agency

October 1980.

Contents

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469) provides for the testing of chemicals in commerce which may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee, composed of representatives from eight designated Federal Agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the list (the Section 4(e) Priority List) as it determines to be necessary and transmits them to the EPA Administrator at least every six months.

As a result of its deliberations, the Committee is revising the TSCA Section 4(e) Priority List by the removal of one chemical and the addition of two chemicals and two categories of chemicals. Cholromethane is being removed from the list. The chemicals and categories of chemicals being added to the list are presented alphabetically, together with the types of testing recommended, as follows:

Chemical or category	Recommended studies
Alkyltin Compounds	Carcinogenicity, mutagenicity, reproductive effects, teratogenicity, developmental effects, chronic health effects, epidemiology, and environmental effects.
Benzyl butyl phthalate	Carcinogenicity, reproductive effects, and environmental effects.
Butyl glycolyl butyl phthalate	Reproductive effects, mutagenicity and other short-term tests for genotoxic effects, and environmental effects.
Fluoroalkenes	Carcinogenicity, mutagenicity, teratogenicity, reproductive effects, and other toxic effects.

Each of the new recommendations is being designated by the Committee for action by the EPA within twelve months of the date of this Seventh Report, as stipulated by TSCA.

TSCA Interagency Testing Committee

Statutory Member Agencies and Representatives

Council on Environmental Quality
No Representative
Department of Commerce
Orville E. Paynter, Member
Bernard Greifer, Alternate member
Environmental Protection Agency
Joseph Seifter, Member
Carl R. Morris, Alternate member [1]
National Cancer Institute
James M. Sontag, Member and Chairperson
National Institute of Environmental Health Sciences
Warren T. Piver, Member [2]
Dorothy Canter, Alternate member [3]
National Institute for Occupational Safety and Health
Vera W. Hudson, Member and Vice Chairperson
Alfred N. Milbert, Alternate member [4]
National Science Foundation
Sidney Draggan, Member
Occupational Safety and Health Administration
Patricia Marlow, Member [5]
Lucille Adamson, Alternate member [6]

Liaison Agencies and Representatives

Consumer Product Safety Commission
Joseph McLaughlin
Department of Agriculture
Homer E. Fairchild and Fred W. Clayton
Department of Defense
Bernard P. McNamara
Department of the Interior
Charles R. Walker
Food and Drug Administration
Allen H. Heim and Winston deMonsabert
National Toxicology Program
Dorthy Canter [3]

Committee Staff

Martin Greif, Executive Secretary [7]
Vacant, Administrative Technician

Support Staff

Ellen Siegler—Office of the General Counsel, EPA
Edward Zillioux—Office of Toxic Substances, EPA

The Committee acknowledges and is grateful for the assistance and support given to it by Bruce Means, EPA Office of Toxic Substances, and the staff of Enviro Control, Inc. (technical support contractor).

Seventh Report of the Toxic Substances Control Act Interagency Testing Committee to the Administrator, Environmental Protection Agency

October 1980.

Chapter 1. Introduction.

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemcial substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register**. The Committee is directed to make revisions to the List, as it determines to be necessary, and to transmit such revisions to the EPA Administrator at least every six months after submission of the Initial List.

The Committee is comprised of representatives from eight statutory member agencies, five liaison agencies, and one national program. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and prior recommendations are described in previous reports (Ref. 1 through 7).

1.2 *Committee's activities during this reporting period.* The Committee

[1] Dr. Morris replaced Dr. Amy Rispin as the Alternate member on August 21, 1980.

[2] Dr. Piver changed from the Alternate member to the Member on May 15, 1980.

[3] Dr. Canter joined the Committee as the Alternate member of the National Institute of Environmental Health Sciences and as the Liaison representative of the National Toxicology Program on May 15, 1980.

[4] Dr. Milbert replaced Dr. Michael Blackwell as the Alternate member on April 24, 1980.

[5] Dr. Marlow replaced Dr. David Logan as the Alternate member on May 15, 1980, and was appointed the Member, replacing Dr. Victor Alexander, on July 17, 1980.

[6] Dr. Adamson replaced Dr. Patricia Marlow as the Alternate member on July 17, 1980.

[7] Mr. Greif joined the Committee Staff as Executive Secretary on July 28, 1980.

has continued to review chemicals from its second round of scoring (see Ref. 2 for methodology). A third round was completed in July 1980. In this latest scoring effort the Committee utilized, for the first time, the public (non-confidential) portion of the TSCA Chemical Substance Inventory for 1977. Essentially the same method for scoring chemicals was used in the third round as in earlier ones. Only high production chemicals reported in the public portion of the Inventory (i.e., those with annual production known to be in excess of 2 million pounds) were considered. Chemicals scored previously were excluded.

1.3 *Committee's previous reports.* Six previous Reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register** (Ref. 2 through 7). A total of 39 entries (i.e., chemicals and categories of chemicals) has been designated for priority consideration by the EPA Administrator in those reports.

1.4 *The TSCA Section 4(e) Priority List.* The Committee is removing chloromethane from the Priority List because the EPA Administrator has responded to the Committee's recommendations (Ref. 8).

The EPA Administrator has responded to the Committee's recommendations for health effects testing of acrylamide (Ref. 9, 10). However, acrylamide remains on the List because the EPA has not yet responded, as required by section 4(e)(1)(B) of TSCA, to the environmental effects testing recommendation of the Committee.

The EPA Administrator has responded to the health effects testing recommendations of the Committee on the chlorinated benzenes (mono-, di-, tri-, tetra-, and penta-) (Ref. 8). However, the chlorinated benzenes remain on the List because the EPA has not yet responded, as required by section 4(e)(1)(B) of TSCA, to the environmental effects testing recommendation of the Committee.

With the removal of one chemical from the Priority List and the designation of two new chemicals and two new categories of chemicals, the Section 4(e) Priority List now contains 42 entries. The entries and the dates of their designation by the Committee are presented in Table 1. The deletion from the Priority List and the date of its deletion by the Committee are presented in Table 2.

Table 1.—*The TSCA Section 4(e) Priority List*

Entry	Date of designation
1. Acetonitrile	April 1979.
2. Acrylamide	April 1978.[b,d]
3. Alkyl epoxides	October 1977.[a]
4. Alkyl phthalates	October 1977.[a]
5. Alkyltin compounds	October 1980.
6. Aniline and bromo, cloro and/or nitro anilines.	April 1979.
7. Antimony (metal)	April 1979.
8. Antimony sulfide	April 1979.
9. Antimony trioxide	April 1979.
10. Aryl phosphates	April 1978.[b]
11. Benzidine-based dyes	November 1979.
12. Benzyl butyl phthalate	October 1980.
13. Butyl glycolyl butyl phthalate	October 1980.
14. Chlorinated benzenes, mono- and di-.	October 1977.[a,c]
15. Chlorinated benzenes, tri-, tetra- and penta-.	October 1978.[c]
16. Chlorinated naphthalenes	April 1978.[b]
17. Chlorinated paraffins	October 1977.[a]
18. Cresols	October 1977.[a]
19. Cyclohexanone	April 1979.
20. *o*-Dianisidine-based dyes	November 1979.
21. Dicholoromethane	April 1978.[b]
22. 1,2-Dichloropropane	October 1978.
23. Fluoroalkenes	October 1980.
24. Glycidol and its derivatives	October 1978.
25. Halogenated alkyl epoxides	April 1978.[b]
26. Hexachloro-1,3-butadiene	October 1977.[a]
27. Hexachlorocyclopentadiene	April 1977.
28. Hydroquinone	November 1979.
29. Isophorone	April 1979.
30. Mesityl oxide	April 1979.
31. 4,4'-Methylenedianiline	April 1979.
32. Methyl ethyl ketone	April 1979.
33. Methyl isobutyl ketone	April 1979.
34. Nitrobenzene	October 1977.[a]
35. Phenylenediamines	April 1980.
36. Polychlorinated terphenyls	April 1978.[b]
37. Pyridine	April 1978.[b]
38. Quinone	November 1979.
39. *o*-Tolidine-based dyes	November 1979.
40. Toluene	October 1977.[a]
41. 1,1,1-Trichloroethane	April 1978.[b]
42. Xylene	October 1977.[a]

[a] Responded to by the EPA Administrator in 43 FR 50134-50138.
[b] Responded to by the EPA Administrator in 44 FR 28095-28097.
[c] Responded to by the EPA Administrator in 45 FR 48524-48564.
[d] Responded to by the EPA Administrator in 45 FR 48510-48512.

Table 2.—*Removal from the TSCA Section 4(e) Priority List*

Removal	Date of removal
1. Chloromethane[a]	Oct. 1980.

[a] Responded to by the EPA Administrator in 45 FR 48524-48564.

References

1. Preliminary List of Chemical Substances for Further Evaluation. Toxic Substances Control Act Interagency Testing Committee, July 1977.

2. Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the **Federal Register**, Vol. 42, No. 197, Wednesday, October 12, 1977. pp. 55026–55080. Corrections published in **Federal Register**, Vol. 42, November 11, 1977. pp. 58777–58778. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/001. January 1978.

3. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register**, Vol. 43, No. 76, Wednesday, April 19, 1978. pp. 16684–16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

4. Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register**, Vol. 43, No. 210, Monday, October 30, 1978. pp. 50630–50635. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–79/001, January 1979.

5. Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1979. Published in the **Federal Register**, Vol. 44, No. 107, Friday, June 1, 1979. pp. 31866–31889.

6. Fifth Report of the TSCA Interagency Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, November 1979. Published in the **Federal Register**, Vol. 44, No. 237, Friday, December 7, 1979. pp. 70664–70674.

7. Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1980. Published in the **Federal Register**, Vol. 45, No. 104, Wednesday, May 28, 1980. pp. 35897–35910.

8. Chloromethane and Chlorinated Benzenes Proposed Test Rule: Amendment to Proposed Health Effects Standards. Published in the **Federal Register**, Vol. 45, No. 140, Friday, July 18, 1980. pp. 48524–48564.

9. Acryulamide: Response to the Interagency Testing Committee. Published in the **Federal Register**, Vol. 45, No. 140, Friday, July 18, 1980. pp. 48510–48512.

10. Assessment of Testing Needs: Acrylamide, Support Document for Decision Not to Require Testing for Health Effects, U.S. Environmental Protection Agency, Washington, D.C. 20460, EPA–560/11–8016, July 1980.

Chapter 2. Recommendations of the Committee

2.1 *Chemical substances and categories designated for action by the EPA.* As directed by section 4(e)(1)(B) of TSCA, the Committee is adding two chemical substances and two categories to the Section 4(e) Priority List. The designation of these entries was determined after considering the factors identified in section 4(e)(1)(A) and other available relevant information, as well as the professional judgment of Committee members. The recommended studies for these entries and the

rationales to support the recommendations are given in section 2.2 of this report. In accordance with section 4(e) of TSCA, the Committee designates these entries for action by the EPA within twelve months of the date of this seventh Committee report.

2.2 *Recommendations and rationales.*

2.2.a *Alkyltin Compounds.*

Recommended Studies

Health.

Carcinogenicity
Mutagenicity
Teratogenicity
Reproductive effects
Developmental effects
Other chronic effects
Epidemiology

Environmental:

Environmental effects.

The recommended studies are conditional, based upon the considerations discussed below.

Studies for carcinogenic and mutagenic effects. One dialkyltin compound (i.e., dibutyltin diacetate) has been studied for carcinogenicity. The results of the study were inconclusive and the compound should be retested. Before long-term bioassay studies are recommended for other members of this category, short-term screening tests should be performed to determine and assess other genotoxic effects and to identify those compounds having a potential for causing mutations or otherwise altering genetic material.

Studies for reproductive, teratogenic, and developmental effects. Certain members of this category have produced reproductive effects in laboratory animals. Studies of these category members indicate that they reach and are transported across the blood-placental and blood-testicular organ barriers. Transport to and across these blood-organ barriers can affect reproduction and cause teratogenic and post-natal developmental effects. Studies of other members of this category are needed to assess their capacity to be transported across the relevant blood-organ barriers to determine their effect on reproduction, teratogenicity, and postnatal development.

Chronic health effects studies. Chronic health effects studies with laboratory animals have been performed on a limited number of the alkyltin compounds in this category. These studies indicate that exposure to certain members of this category caused adverse effects on the liver, lungs, kidney, and central nervous system. For those compounds tested, the observed response appeared to be related to the number of alkyl groups covalently bonded to the tin atom and the chemical composition of the alkyl group. Additional studies, however, are needed on the untested members of this category to determine their toxic effects on target organ systems. For those compounds that have been tested, observed systemic effects are a strong function of absorption, distribution, and retention at target organs. Therefore, attention should be given to different routes of exposure. In addition to these studies on target organ toxicity, biochemical studies are required to determine metabolic pathways, binding affinities to proteins and other macromolecules, and the ability of these chemicals to inhibit enzymatic processes necessary to cellular and organ function.

Epidemiological studies. No epidemiological studies on people engaged in the production of category members have been found in the open literature. Because of the known toxicity of several members of this category, retrospective and prospective studies are needed to determine the effects of occupational exposure to category members through inhalation and eye and skin contact.

Environmental studies. The discharge of members of this category to aquatic environments and the impact of this release on exposed plants and animals, either directly or indirectly, have not been adequately studied. Because these compounds are insoluble in water and have a very low vapor pressure, studies are needed to determine mechanisms for their transport, partitioning, and accumulation in food-chain organisms, and the transformation of category members by chemically and biologically mediated processes. In addition, studies with both the parent compounds and their transformed products are needed to determine the ranges of sensitivities for a wide variety of aquatic plants and animals, including representative invertebrates.

Category Identification

The general formula for compounds that comprise this category is:

R_nSnY_{4-n}

Where:

R represents an alkyl group containing one to eight carbon atoms covalently bonded to the tin atom.

n represents the number of alkyl groups covalently bonded to the tin atom; n can have a value between 1 and 4.

Y represents a singly charged anion or anionic organic group bonded to the tin atom.

Sn is the chemical symbol for the element tin.

The alkyl groups of commercially important alkyltin compounds are methyl, ethyl, *n*-butyl, and *n*-octyl groups. Table 1 lists these important compounds along with their production histories. Table 2 lists selected physical and chemical data for these compounds and their major commercial uses. Additional members of this category that have commercial value, but on which only limited data on their uses and production could be found, are presented in Table 3. The chemicals listed in Table 3 were derived from a report prepared for NIOSH (NIOSH, 1978) and from the TSCA Chemcial Substance Inventory.

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Table 1 ESTIMATED ANNUAL U.S. PRODUCTION HISTORY OF SELECTED ALKYLTIN COMPOUNDS (MILLION POUNDS PER YEAR)(a)

Year	Bu IOMA	Me IOMA	Bu LM	Bu Maleate	Oct. IOMA	Oct. Maleate	DBTDL	DBTH	TBTO	TBTF	Total
1965	2.3	--	1.0	0.22	--	--	0.6	--	0.86	--	5.0
1966	4.6	--	1.0	0.22	--	--	0.9	--	0.93	--	7.6
1967	4.9	--	0.9	0.48	--	--	1.2	--	1.20	--	8.7
1968	6.2	--	0.9	0.52	0.16	0.02	1.6	--	1.32	--	10.7
1969	7.1	--	0.9	0.57	0.20	0.03	2.0	--	1.50	--	12.3
1970	8.3	0.7	1.1	0.59	0.32	0.05	2.4	--	1.67	0.01	15.2
1971	8.2	1.4	1.1	0.62	0.37	0.06	2.8	--	1.97	0.02	16.6
1972	10.5	2.9	1.3	0.26	0.56	0.08	2.5	0.8	1.61	0.05	20.6
1973	10.1	4.0	1.3	0.22	0.62	0.08	3.0	0.9	1.98	0.08	22.8
1974	9.3	4.5	1.3	0.21	0.37	0.07	3.5	1.1	2.07	0.12	22.5
1975	7.0	4.0	1.0	0.20	0.50	0.07	3.0	0.9	1.40	0.30	18.4
1976	9.0	4.5	1.1	0.22	0.60	0.07	4.3	1.0	2.30	0.50	23.0
Total	87.5	22.0	12.9	4.33	3.70	0.53	27.8	4.7	18.81	1.08	183.4

Key to Notation:

Symbol	Chemical Name	Formula	CAS No.
Bu IOMA	Butyltin-tris(isooctylmercaptoacetate)	$C_4H_9\ Sn(SCH_2COOC_8H_{17})_3$ plus blends	25852-70-4
Me IOMA	Methyltin-tris(isooctylmercaptoacetate	$CH_3\ Sn(SCH_2COOC_8H_{17})_3$ plus blends	54849-38-6
Bu LM	Dibutyltin-bis(laurylmercaptide)	$(C_4H_9)_2\ Sn(SC_{12}H_{25})_2$	1185-81-5
Bu Maleate	Dibutyltin-bis(isooctylmaleate)	$(C_4H_9)_2\ Sn(O_2CCH = CHCO_2C_8H_{17})_2$	29575-02-8
Oct. IOMA	Di(n-octyl)tin-S,S'-bis(isooctylmercaptoacetate)	$(C_8H_{17})_2\ Sn(SCH_2COOC_8H_{17})_2$	26401-97-8
Oct. Maleate	Di(n-octyl)tin maleate polymers	$[(C_8H_{17})_2\ Sn(O_2CCH = CHCOO)]_x$	16091-18-2
DBTDL	Dibutyltin dilaurate	$(C_4H_9)_2\ Sn(O_2CC_{11}H_{23})_2$	77-58-7
DBTH	Dibutyltin-bis(2-ethyl hexoate)	$(C_4H_9)_2\ Sn(O_2CCH(C_2H_5)C_4H_9)_2$	2781-10-4
TBTO	Bis(tributyltin) oxide	$[(C_4H_9)_3\ Sn]_2O$	56-35-9
TBTF	Tributyltin fluoride	$(C_4H_9)_3\ SnF$	1983-10-4

(a) Midwest Research Institute, 1977.

Table 2 SELECTED PHYSICAL PROPERTIES AND PRODUCT USES OF SELECTED ORGANOTIN COMPOUNDS(a)

Compound	Appearance	Solubility		Product Uses			
		H_2O	Organic Solvents	Catalyst	Stabilizer	Biocide	Other
Monomethyltin-tris(isooctylmercaptoacetate)	Liquid				X		
Monobutyltin-tris(isooctylmercaptoacetate)	Liquid				X		
Dibutyltin-bis(laurylmercaptide)	Clear pale liquid	Insol.	Sol.		X		
Dibutyltin dilaurate	Liquid or low m.p. solid	Insol.	Sol.	X			5
Dibutyltin-bis(isooctylmaleate)	White powder	Insol.	Insol. in almost all solvents	X	X		5
Di(n-octyl)tin-S,S'-bis-(isooctylmercaptoacetate)	Clear yellow liquid	Insol.	Sol.		X		
Di(n-octyl)tin maleate polymers	Powder	Insol.	Sol.		X		
Bis(tributyltin) oxide	Yellow liquid	Insol.	Sol.	X		X	1,2,3,4,5,6
Tributyltin fluoride	White powder	Insol.	Sol.			X	
Dibutyltin-bis(2-ethyl hexoate)	Waxy white solid	Insol.	Sol.	X		X	

Other Use Code: 1. Flame resistant polymer 2. Wood preservative 3. Spreading coefficient of solder
4. Water repellent coating 5. Antioxidant or corrosion inhibitor 6. Adhesives preservative

(a) Source: Taken from Midwest Research Institute, 1977, which used the following references:
NIOSH, Occupational Exposure to Organotin Compounds, U. S. Department of HEW, No. 77-115, November 1976.
Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed., Vol. 20, John Wiley and Sons, New York, 1969.
M & T Chemicals, Inc., Rahway, New Jersey.
Tin Research Institute, Greenford, Middlesex, ENGLAND.

Table 3 ADDITIONAL SELECTED COMMERCIALLY IMPORTANT ALKYLTIN COMPOUNDS FOR WHICH PRODUCTION AND USE DATA WERE NOT COMPLETE[a]

Chemical Name	CAS Number	Formula
Monobutyltin trichloride	1118-46-3	$C_4H_9SnCl_3$
Monomethyltin trichloride	993-16-8	CH_3SnCl_3
Dibutyltin dichloride	683-18-1	$(C_4H_9)_2SnCl_2$
Dibutyltin dibutoxide	3349-36-8	$(C_4H_9)_2Sn(OC_4H_9)_2$
Dibutyltin-bis(laurylmaleate)	7324-75-6	$(C_4H_9)_2Sn(O_2CCH=CHCO_2C_{12}H_{25})_2$
Dibutyltin dinonylate	4731-77-5	$(C_4H_9)_2Sn(O_2CC_8H_{17})_2$
Dibutyltin dimethoxide	1067-55-6	$(C_4H_9)_2Sn(OCH_3)_2$
Dibutyltin oxide	818-08-6	$(C_4H_9)_2SnO$
Dimethyltin dichloride	753-73-1	$(CH_3)_2SnCl_2$
Dimethyltin oxide	2273-45-2	$(CH_3)_2SnO$
Dioctyltin oxide	870-08-6	$(C_8H_{17})_2SnO$
Dioctyltin dichloride	3542-36-7	$(C_8H_{17})_2SnCl_2$
Dimethyltin-bis(isooctylmercapto-acetate)	26636-01-1	$(CH_3)_2Sn(SCH_2COOC_8H_{17})_2$
Dimethyltin-bis(dodecylmercaptide)	51287-84-4	$(CH_3)_2Sn(SC_{12}H_{25})_2$
Tributyltin (2-hydroxypropyl maleate)	4342-30-7	$(C_4H_9)_3Sn(O_2CCH=CHCO_2CH_2CH(OH)CH_3)$
Tributyltin chloride	1461-22-9	$(C_4H_9)_3SnCl$
Tributyltin hydroxide	1067-97-6	$(C_4H_9)_3SnOH$
Tributyltin (2-methyl-2-propenoate)	2155-70-6	$(C_4H_9)_3Sn(O_2CC(CH_3)=CH_2)$
Triethyltin hydroxide	994-32-1	$(C_2H_5)_3SnOH$
Trimethyltin chloride	1066-45-1	$(CH_3)_3SnCl$
Tetrabutyltin	1461-25-2	$(C_4H_9)_4Sn$
Tetraethyltin	597-64-8	$(C_2H_5)_4Sn$
Tetraoctyltin	3590-84-9	$(C_8H_{17})_4Sn$

(a) Sources: NIOSH, The Development of a List of Organometallics Found in the Workplace, Contract No. 210-76-0146. 1978.
EPA, TSCA Chemical Substance Inventory for 1977.

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Reasons for recommendtions

The alkyl groups covalently bonded to the tin atom of category members enhance the solubility of these compounds in organic solvents, increase their volatility, and facilitate their penetration of biological tissues. The chain length and number of alkyl groups bonded to the tin influence the physical-chemcial properties of these compounds and their rates of absorption, distribution, metabolism, excretion, retention, and accumulation in target organs. The role of anionic groups in the toxicity of these compounds is unknown.

Routes of exposure. The manufacture and uses of the category members represent the major routes of direct exposure. Most of the compounds listed in Table 1 occur as liquids and waxy solids, so exposure would occur by dermal or eye contact and by inhalation of aerosols. Several of the lower molecular weight compounds listed in Table 3 are volatile and exposure to them would occur by inhalation. Depending on the method of synthesis, commercial alkyltin category members may contain mono-, di-, tri-, and tetra-alkyltin compounds as impurities (Midwest Research Institute, 1977). In the United States there are two synthetic routes for the manufacture of alkyltin compounds, the Grignard method and the direct method. It is estimated that a total of 30,000 workers are exposed to all of the compounds that make up this category (NIOSH, 1976).

During synthesis and purification of final product compounds, workers may be exposed to the final products, intermediates, by-products, and reaction aids required for synthesis.

Unintentional exposure to category members may occur as a result of commercial uses of these compounds. For example, exposure may occur by the migration of these compounds from medical devices that are in contact with biological fluids (Guess and Haberman, 1968; Guess, 1970; Duke and Vane, 1968) and the migration from containers and packaging materials that are in contact with foods (Carr, 1969; Woggan et al., 1969).

Toxic effects of alkyltin compounds. In this discussion of toxic effects, only data for alkyltin compounds are presented. Other commercially important organometallic compounds of tin contain covalently bonded aromatic groups. Because these aryltin compounds are used primarily as fungicides, bactericides, and herbicides, they are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act. A large body of literature exists on the toxic effects of the aryltin compounds (Kimbrough, 1976; NCI, 1978; Innes et al., 1969; Klimmer, 1964; Pate and Hays, 1968; Newton and Hays, 1968).

Toxic effects in humans. The chlorides of dibutyltin and tributyltin were reported to be highly irritating to the skin and eyes of workers employed as product material handlers (Lyle, 1958). Workers engaged in spray painting with latex paints containing bis(tributyltin) oxide reported eye irritation and irritation of the respiratory tract (Landa et al., 1973).

Much of the research on alkyltin compounds resulted from a poisoning incident that occurred in France in 1954 and claimed the lives of over 100 people. Death was linked to the ingestion of the drug Stalinon (Barnes and Stoner, 1959), taken for the systemic treatment of staphylococcal infections of the skin. The active ingredient in the drug was diethyltin diiodide, but it was discovered that the probable cause of death was the presence of triethyltin iodide, an impurity. Autopsied victims showed marked interstitial edema of the brain white matter, but with no apparent Wallerian degeneration of the nervous system tissues.

Experimental animal studies. Depending on their chemical composition and route of exposure, alkyltin compounds differ in the severity of their acute effects and the organs they affect. The trialkyltin compounds appear to be the most toxic, followed by the dialkyltin compounds, and finally the monoalkyltins. The tetraalkyltins are metabolized to their trialkyltin counterparts (Cremer, 1958), so their toxicity is dependent on their rate of metabolism. The trialkyltin compounds appear to affect the central nervous system in all animals species studied (Magee et al., 19570. The dialkyltin compounds do not affect all animal species in the same way (Barnes and Stoner, 1958; Calley et al., 1967; Verschuuren et al., 1966; Klimmer, 1964), but liver damage appears to be the most common effect. Exposure to high oral doses of monoalkyltins (4000 mg/kg) caused fatty degeneration and hyperemia in the kidneys of rats (Pelikan and Cerny, 1968a, 1970a, 1970b; Pelikan et al., 1970).

Inhalation studies with triethyltin bromide, tripropyltin bromide, and tributyltin bromide caused death by pulmonary edema in mice (Glass et al., 1942). Inhalation by rats of tributyltin bromide caused bronchitis and bronchogenic pneumonia (Igarashi, 1959).

In rats, skin absorption of a tributyltin compound produced liver damage, as well as a slight edema of the skin at the site of application (Pelikan and Cerny, 1968, 1969). Possible liver and kidney damage occurred in rabbits after dermal applications of tributyltin chloride, bromide, and iodide (Kawai, 1962).

Biochemical studies. In vitro studies have been conducted with several trialkyltin compounds. Their purpose was to study the inhibition of enzyme function and alterations of metabolic processes in an attempt to understand the relationship of these biochemical changes to observed disease endpoints.

It was suggested that, after exposure to triethyltin iodide, the edematous lesion in the white matter of the brain was due to interference in ATP utilization and inhibition of oxidative phosphorylation (Magee et al., 1957; Barnes and Magee, 1958; Cremer, 1970; Aldridge and Street, 1970). Inhibition of oxidative phosphorylation was thought to be due to the uncoupling of this process. This supposition is supported by studies on the binding of triethyltin to histidine molecules that comprise the "proton conducting tube" necessary for oxidative phosphorylation to occur (Rose and Lock, 1970). The capacity for other alkyltin compounds to inhibit enzymatic functions has not been examined adequately.

In studies with rats (Joo et al., 1969), exposure to triethyltin produced collapse of the blood-brain barrier. Its collapse was a function of the triethyltin concentration. the triethyltin compound may have caused increased permeability of the barrier and/or resulted in metablic disturbances in the brain.

Metabolism of alkyltin compounds occurs in the liver microsomes by the monooxygenase system (Kimmel et al., 1977). Metabolism involves the progressive dealkylation of these comounds, with the final liberation of Sn^{+4}. Inorganic tin appears to accumulate preferentially in the bone, with other sites being the lung, liver, and kidney (Hiles, 1974).

Carcinogenicity and mutagenicity. A carcinogenicity study of dibutyltin diacetate in rats and mice was inconclusive (NCI, 1979). No data on the mutagenicity of alkyltin compounds were found for bacterial assay systems. However, studies designed to use inhibition of bacterial growth as an indicator of mutagenicity gave negative results for the inorganic forms of tin that represent the +2 (stannous) and +4 (stannic) oxidation states (Nishioka, 1975; Kanematsu and Kada, 1978). The bacterial system was a recombination-deficient of *Bacillus subtilis* strains H17

(Rec+, arg−, and trp−) and M45 (Rec−, arg−, and trp−).

Reproductive, teratogenic, and developmental effects. Few studies were found on reproductive, teratogenic, and developmental effects resulting from exposure to alkyltin compounds. After inhalation exposure to tributyltin bromide, no effects were observed in the sex organs of male rats, but a marked atrophic destruction of the glandular epithelium and an increase in interstitial connective tissues of the uterus were observed in female rats (Iwamoto, 1960). No changes were observed in the ovaries. In a study with dioctyltin-S,S'-bis(isooctylmercaptoacetate), an increased number of resorptions and fetal deaths were observed as a result of oral administration of the compound to pregnant rats (Nikonorow et al., 1973).

Environmental Effects. No data were found in the open literature on the environmental degradation of alkyltin compounds.

Soil mobility tests have been conducted to determine the capacity of certain category members to be transported from land burial sites (Midwest Research Institute, 1977). Leaching tests indicated that the compounds are tightly bound by clay and organic matter in soil and are immobilized, but a complete analysis of all soil factors that influence transformation and transport of these compounds into ground water was not reported.

Many species of fresh-water fish are sensitive to low levels of tributyltin compounds. For example, the 24-hour LC_{50} for rainbow trout to tributyltin oxide is reported to be 0.027 ppm (EPA, 1973). Other aquatic organisms may be tolerant to low levels of these alkyltin compounds, but they have not been identified. Before the impact of exposure to low levels of these compounds can be understood, acute toxicity data are needed for a broader range of aquatic organisms. Such data will identify sensitive and tolerant species and narrow the number of important food-chain species that need additional bioaccumulation and chronic toxicity studies.

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2.2.b. *Benzyl Butyl Phthalate.*

Recommended Studies

Health:

Carcinogenicity.
Reproductive effects.

Environmental:

Environmental effects.

Substance Identification: CAS No. 85–68–7.

Reasons for Recommendations

The evidence from one study suggests that an increased incidence of leukemias in female rats may have been related to their exposure to benzyl butyl phthalate (BBP). The parallel study in male rats was inadequate due to excessive toxicity and mortality among the animals treated with BBP. These results indicate a need for a more thorough evaluation of the potential carcinogenicity of BBP.

Toxicity data suggest that BBP may influence mammalian reproductivity. Other phthalate esters have been reported to produce testicular effects in both male rats and mice and decreased fertility in male mice. These findings indicate the need to test BBP for its potential reproductive effects.

Little information is available on the environmental effects of BBP. Structurally similar phthalate esters, however, are toxic to aquatic organisms in the parts per billion range and accumulate in aquatic plant and animal tissues. This information indicates the need for further environmental monitoring and testing of BBP. Chronic toxicity to aquatic organisms and potential effects on reproduction should be emphasized.

Production, usage, and exposure. The BBP production for 1977 was reported in the public portion of the TSCA Chemical Substance Inventory to be in the range of 101 million to 510 million pounds. It is used primarily as a plasticizer in medical and dental devices, synthetic leather, and sealing and coating applications. The National Occupational Hazards Survey (NOHS) estimates that 68,500 workers are exposed to BBP (NIOSH, 1980).

Carcinogenicity. An elevated incidence of leukemias was reported in female rats treated with BBP (NCI, 1980a). The report stated that BBP "* * * was not clearly carcinogenic for female F344 rats; however, existing evidence suggests that the leukemias of the hematopoietic system may have been related to the administration of the test chemical." In the same study, the test in male rats was considered to be inadequate because of excessive toxicity and mortality among the treated animals. In the male rats, however, abnormal effects in the hematopoietic system was observed. No carcinogenic effect was found in the male or female mice treated with BBP. In another study, di(2-ethylhexyl)phthalate was reported to be carcinogenic in rats and mice (NCI, 1980b).

In the strain A mouse pulmonary adenoma induction system, BBP failed to produce a significant incidence of lung tumors among the treated animals (Theiss et al., 1977).

In view of the inconclusive findings in the long-term rat study, the Committee recommends that a more thorough evaluation of the potential carcinogenicity of BBP be undertaken.

Reproductive effects. A slight reduction in testicular weight was observed in male mice treated with BBP (Calley et al., 1966). Other phthalate esters have been reported to produce testicular atrophy in both male rats and mice (Carter et al., 1977; NCI, 1980b) and decreased fertility in male mice (Oishi and Hiraga, 1980). Based on these findings, the Committee recommends that BBP be tested for its potential reproductive effects.

Environmental effects. A study of the toxicity of BBP on aquatic organisms demonstrated that BBP affects the reproduction of *Daphnia magna* and the growth rates of algae, diatoms, and daphnids (Gledhill et al., 1980). The extent to which BBP affects these organisms is important since many fish and shellfish are dependent on their availability as a food source.

A bioconcentration factor of 663 was observed for BBP at equilibrium in bluegills exposed to the compound (Borrows et al., in press, as quoted in Gledhill et al., 1980).

The log of the octanol/water partition coefficient for BBP (4.8) approximates the log K_{ow} of di(2-ethylhexyl)phthalate (DEHP). DEHP has been shown to bioaccumulate rapidly in a number of aquatic plants and animals and to biodegrade slowly in algae, diphnids, mosquito larvae, snails, and clams (Metcalf et al., 1973). Low pH and anaerobic conditions prolong environmental degradation, which suggests that phthalic acid esters may persist in aquatic sediments (Bower et al., 1970; Habermann et al., 1968).

For the above reasons, and because of BBP's high production volume, environmental effects testing is recommended. Because of BBP's likely persistence in the environment, chronic toxicity to aquatic organisms and potential reproductive effects in terrestrial animals should be emphasized, although this recommendation is not limited only to these areas.

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2.2.c. *Butyl glycolyl lbutyl phthalate.*

Recommended Studies

Health:

Mutagenicity and other short-term tests for genotoxic effects.

Reproductive effects.

Environmental:

Environmental effects.

Substance Identification: CAS No. 85–70–1

Reasons for Recommendations

A significant number of chromatid gaps in Chinese hamster cells in vitro was reported in one study of butyl glycolyl butyl phthalate (BGBP). In another study, increased incidences of chromatid gaps, chromosomal breaks, and translocations in vitro were reported. The results of these studies indicate the need for further evaluation of BGBP in short-term studies for potential genotoxic effects.

Little information is available on the potential reproductive effects of BGBP. Data on other phthalate esters suggest toxicity that may influence mammalian reproductivity, including testicular effects in both male rats and mice and decreased fertility in male mice. These data indicate the need to determine the potential reproductive effects of BGBP.

No information was found on the environmental effects of BGBP. Structurally similar phthalate esters, however, are toxic to aquatic organisms in the parts per billion range and accumulate in aquatic plant and animal tissues. Such information indicates the need for further environmental monitoring and testing of BGBP. Chronic toxicity to aquatic organisms and potential effects on reproduction should be emphasized.

Production, usage, and exposure. BGBP production for 1977 was reported in the public portion of the TSCA Chemical Substance Inventory to be in the range of 1 million to 10 million pounds. It is used primarily as a plasticizer fopr polyvinyl resins. Plastics containing BGBP are used for building and construction materials, home furnishings, and medical and dental devices, including PVC tubing, plastic storage bags, and acrylic dentures. The National Occupational Hazards Survey (NOHS) estimates that 5,500 workers are exposed to BGBP (NIOSH, 1980).

Mutagenicity and other short-term tests for genotoxic effects. Chromatid gaps were observed in Chinese hamster cells exposed in vitro to BGBP (Odashima and Ishidate, 1975, as quoted by Omori, 1976; the original publication of the results could not be located for review). In another study (Ishidate and Idashima, 1977), an increased incidence of chromatid gaps, chromosomal breaks, and translocations was observed in Chinese hamster cells exposed in vitro to BGBP. The results were considered suspicious by the authors, but not conclusive of a treatment-related effect.

Neither DNA repair damage nor mutagenic effects were observed following exposure of *Bacillus subtilis* or *Escherichia coli* to BGBP (Kurata, 1975). These results are inconclusive because of inadequacies in the test design. Other phthalate esters have been reported not to be mutagenic in bacterial assay systems. Benzyl butyl phthalate was reported not to be mutagenic for *E. coli* (Kurata, 1975), while the carcinogenic di(2-ethylhexyl)phthalate was not mutagenic for *Salmonella typhimurium* (Simmon et al., 1977).

In view of the above findings, the Committee recommends that additional short-term studies be conducted to evaluate the genotoxicity of BGBP.

Reproductive effects. BGBP was reported to increase the percentage of resorptions of rate embryos following intraperitoneal injection on the 5th, 10th, and 15th days of gestation (Singh et al., 1972). Fetus weight decreased at all dose levels. In the same study, administration of BGBP to female rats did not interfere with fertility, as reflected by the ratio of corpora lutea to implantation sites.

Available data on other phthalate esters suggest toxicity that may influence mammalian reproductivity. These esters have been shown to produce testicular atrophy in both male rats and mice (Carter et al., 1977; NCI, 1980), decreased fertility in male mice (Oishi and Huiraga, 1979), reduced testicular weight in male mice (Calley et al., 1966), and increased relative testicular weight in male mice (Oishi and Hiraga, 1980).

The above findings indicate the need to test BGBP for its potential reproductive effects.

Environmental effects. The log of the octanol/water partition coefficient for BGBP (4.4) approximates the log k_{ow} of di(2-ethylhexyl) phthalate (DEHP). DEHP has been shown to bioaccumulate rapidly in a number of aquatic plants and animals and to biodegrade slowly in algae, daphnids, mosquito larvae, snails, and clams (Metcalf et al., 1973). Low pH and anaerobic conditions prolong environmental degradation, which suggests that phthalic acid esters may persist in aquatic sediments (Bower et al., 1970; Habermann et al., 1968).

The literature on other phthalate esters indicates that some of them can produce adverse effects in aquatic organisms at concentrations in the parts per billion range (Johnson et al., 1977; Mayer et al., 1977; Mayer and Sanders, 1973).

Because of the lack of environmental effects data on BGBP and because of its structural similarity to phthalate esters that persist and/or are toxic at low concentrations, environmental effects testing is recommended. Particular attention should be given to effects on reproduction in terrestrial animals and to chronic-toxicity in aquatic organisms, although this recommendation is not limited only to these areas.

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2.2.d. *Fluoroalkenes.*

Recommended Studies

Health:

Carcinogenicity.
Mutagenicity.
Teratogenicity.
Reproductive Effects.
Other Toxic Effects.

Category Indentification

This category is defined as fluoroalkenes of the general formula:

$C_nH_{2n-x}F_x$

Where n equals 2 or 3 and x equals 1 to 6. Six fluoroalkenes, meeting the category definition, were identified in the public portion of the TSCA chemical Substance Inventory. This category includes those six fluoroalkenes (shown below) but is not limited to them:

Chemical	CAS No.
Tetrafluoroethene	116–14–3
Trifluoroethene	359–11–5
Vinylidine fluoride (VDF)	75–38–7
Vinyl fluoride (VF)	75–02–5
Hexafluoropropene	116–15–4
Trifluoromethylethene	677–21–4

Reasons for Recommendations

There is little information on the toxicity of compounds in this category. The testing of vinyl fluorides has generally been given low priority because of the lack of reactivity of compounds with the carbonfluorine bond. However, the substitution of additional fluorines onto the vinyl carbon leaves it susceptible to nucleophilic attack and thereby capable of direct alkylation, possibly of DNA and other cellular constituents.

Since several vinyl halides have been reported to be carcinogenic, vinyl halides are generally regarded as suspect. A recent report described VDF as a carcinogen in rats. Other studies are needed to clarify the carcinogenicity of category members.

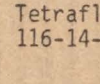
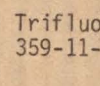
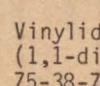
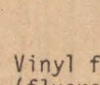
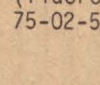
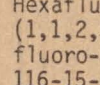
Mutagenicity experiments were found on only two compounds. Additional short-term studies are necessary to clarify the genotoxic effect of members of this category.

Other studies have shown that certain category members act as weak anesthetics, release fluoride ion, and cause kidney damage. The toxic effects in experimental animals of acute inhalation of VF and VDF are enhanced after induction of liver enzymes. Given the demonstration of adverse health effects by certain category members, along with the strong suspicion engendered from analogy with other vinyl halides, appropriate members of this category should be tested in the recommended studies.

Production, usage, and exposure. A substructure search was made of the public portion of the TSCA Chemical Substance Inventory for chemicals within the category definition. A total of six chemcials was identified in the Inventory (Table 1). Data on production volume were not available on four chemicals and were incomplete for the other two.

BILLING CODE 6560-01-M

Table 1 SELECTED CHEMICAL AND ECONOMIC INFORMATION ON CATEGORY MEMBERS

Name CAS No.	Structure	Molecular Weight	Boiling Point(1)	Consumption lb/yr U.S. Production(2)	Occupational Exposure(3)	Major Uses (4)
Tetrafluoroethene 116-14-3		100.2	-76°C	10-50 million	5,000	Monomer for polytetrafluoroethylene.
Trifluoroethene 359-11-5		82.0	-51	2 manufacturers(5)	No information	No information
Vinylidine fluoride (1,1-difluoroethene) 75-38-7		64.0	-82	2 manufacturers(5)	19,000	Monomer for polyvinylidine fluoride. Also copolymerized with other monomers.
Vinyl fluoride (fluoroethene) 75-02-5		46.0	-72	1 manufacturer(5)	No information	Monomer for polyvinyl fluoride. Also copolymerized with other monomers.
Hexafluoropropene (1,1,2,3,3,3-hexafluoro-1-propene) 116-15-4		150.0	-29	1-10 million Some imported	224	Monomer for copolymerization, to impart nonflammability and nonoxidizing characteristics. Intermediate in organic synthesis
Trifluoromethylethene (3,3,3 -trifluoro-1-propene) 677-21-4		96.0	-16(-18)	1 manufacturer(5)	No information	No information

NOTES:

(1) Lovelace et al., 1958
(2) TSCA Chemical Substance Inventory (EPA, 1977)
(3) NIOSH, 1980
(4) Matheson Gas Data Book. 5th ed. 1971; West and Holcomb, 1979
(5) No production data provided in the public portion of the TSCA Chemical Substance Inventory (EPA, 1977)

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Chemicals in this category are used primarily in the synthesis of polymers and copolymers with high resistance to heat and corrosion. The usage patterns of the polymers (e.g., in the automotive industry and in pollution control) would indicate an increasing demand for these chemcials (West and Holcomb, 1979).

The United States has no occupational exposure limits for category members. A Russian study showed that the workplace concentration of fluorinated aliphatic hydrocarbons, including tetrafluoroethene and polymers based on these compounds, exceeded that country's acceptable limits by significant amounts (Filicheva, 1975).

The Committee concludes that the lack of exact production and usage information on some category members is insufficient cause to defer designation of the category. The fact that certain members are known to be produced in large volumes, the potential health effects of these chemicals, and the widespread use of products derived from these monomers necessitate an adequate assessment of the toxicity of members of this category.

Chemical and biochemical considerations related to toxicity. The tendency of halogenated alkenes to undergo chemical transformation to epoxides is a function of both the electron-withdrawing characteristic of the halogen constituents and their locations relative to the olefinic linkage. The enzymatic formation of epoxides is believed to be an important step in the activation of halogenated alkenes to a form that can alkylate active sites on nucleotides and peptides. It has been observed, however, that increasing the electron-withdrawing strength of a halogen substituent results in a decrease in the susceptibility of the olefinic linkage to epoxidation. Among the halogens, fluorine exerts the greatest electron-withdrawing strength. Thus, as the number of substituent fluorines is increased, the ease of epoxidation would be expected to decrease. However, as the number of fluorines is increased, it has been observed that the potential for nucleophilic attack at the olefinic carbon and the order of observed reactivity increase with intermediate carbanion stability (Cook and Pierce, 1973). For example, the following order of nucleophilic susceptibility would be expected: [1]

$(CF_3)_2C=CF_2 > CF_2CF=CF_2 > CF_2=CF_2 > HFC=CF_2 > H_2C=CF_2 > H_2C=CHF$

This rank order has been reported to follow that of the acute toxicities of these compounds (Cook and Pierce, 1973; Chambers and Mobbs, 1965; Clayton, 1977). One report on vinyl fluorides describes the ease with which the carbon-fluorine bond can be broken (Chambers and Mobbs, 1965). For example, fluoro-olefins react quite readily with amines, thiols, and, in the presence of a base, with alcohols to give saturated and unsaturated products. It has been suggested that the high susceptibility of perfluoroisobutene to nucleophilic attack might give rise to its extremely high toxicity (Clayton, 1977).

In summary, category members may be biologically reactive by alkylation through epoxide formation and through direct displacement of the fluorine ion.

Carcinogenicity. One report describes the experimental evidence for the carcinogenicity of VDF in rats (Maltoni and Tovoli, 1979). Although tumors of fat tissue were found in the treated animals, certain features of the study are questionable. In another study, VDF was reported to produce premalignant hepatocellular lesions in rats (Stockle et al., 1979).

Two reports presented evidence showing that, in rats pretreated with PCB, VF caused liver toxicity similar to that of vinyl chloride (Conolly and Jaeger, 1977; Conolly et al., 1978). Pretreatment with trichloropropane epoxide enhanced VF toxicity. These findings suggest that the toxicity of VF may be mediated through epoxide intermediates.

The Committee concludes that the above studies raise concern about the potential carcinogenic activity of category members. The Committee, therefore, recommends that members of this category be tested for carcinogenicity.

Mutagenicity. Both VF and VDF have been reported to be mutagenic, without metabolic activation in *Escherichia coli*, producing a response of up to 100 times the spontaneous mutation rate (Landry and Fuerst, 1968). In another study, VF was found to cause a marginal increase over the spontaneous mutation frequency of *Salmonella typhimurium* TA–100 (Bartsch et al., 1979). In a third study, VF was reported not to be mutagenic in *S. typhimurium* strains TA–1535, TA–1537, TA–1538, TA–98, and TA–100, with and without metabolic activation (Mortelmans and Riccio, 1979). VDF was found to exhibit mutagenicity in *S. typhimurium* TA–1535, both with and without metabolic activation (Jagannath and Brusick, 1977).

In a study of the ability of VDF to transform BALB/3T3 cells, one set of test plates showed a series of increased numbers of transformed colonies (Matheson and Brusick, 1978). However, the authors concluded that VDF was inactive in this study.

Based on these varying and inconclusive findings, the Committee recommends that appropriate short-term tests be undertaken to assess the genotoxic effects of members of this category.

Teratogenic and reproductive effects. No reports were found of studies investigating the teratogenic and reproductive effects of fluoroalkenes. Based on the biological activity of members of this category and the lack of information on these effects, the Committee recommends that appropriate tests for teratogenic and reproductive effects be undertaken.

Other toxic effects. The acute inhalation toxicity of fluoroalkenes varies widely (Clayton 1962, 1967, 1968, 1977). Tetrafluoroethene and hexafluoropropene were reported to impair renal function in rats.

Five fluoroalkenes [2] were reported to be metabolized when inhaled by male rats (Dilley et al., 1974). A cyclic excretion of fluoride ion 4–6 and 12–14 days post-exposure was observed. The fluoroalkene exposure produced an increase in urinary potassium ion and diuresis, which persisted for 2 weeks. Chronic exposure to fluoroalkenes may be of concern since the fluoride ion release affects the kidney, causing potassium depletion which may eventually affect the cardiovascular system. Based on these reports, the Committee recommends that members of this category be assessed for chronic health effects, with particular emphasis on the renal and cardiovascular systems.

Environmental Effects. No data on environmental effects were found in the literature. However, from data on structure-activity relationships, the 96-hour LC_{50} to fathead minnows of VDF has been estimated to be greater than 100 mg/l (Veith, 1980; EPA, 1980). This estimated low acute toxicity suggests that aquatic testing is not warranted. The high volatility and other chemical characteristics of the category members indicate that persistence and bioaccumulation are not of concern in aquatic environments.

When released into the atmosphere, fluoroalkene molecules degrade at a moderate rate. For example, the half-life

[1] The position of $CF_3CH=CH_2$ in this rank order is not readily apparent.

[2] Hexafluoropropene, tetrafluoroethene, trifluoroethene, vinylidene fluoride, and vinyl fluoride.

of VDF, calculated from rate constants, is slightly less than one week (Howard, 1976). The reactive atmospheric components (ozone, hydroxyl radicals, and atomic oxygen) attack the fluoroalkenes by adding to or cleaving the molecule at the double bond to produce products such as carbonyl fluoride (Huie et al., 1972). Based on the above considerations, the Committee does not recommend environmental effects studies for category members.

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Part IV

Environmental Protection Agency

Clean Air Act Emission Warranties; Voluntary Aftermarket Part Self-Certification Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[EN-FRL 1647]

Clean Air Act Emission Warranties; Voluntary Aftermarket Part Self-Certification Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These regulations establish a voluntary aftermarket part self-certification program (hereinafter "Part Certification Program") as required by Section 207(a)(2) of the Clean Air Act. The primary purpose of the Part Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from implementation and enforcement of the section 207 Clean Air Act emission warranties, while at the same time assuring that certified parts do not cause vehicles to exceed Federal emission standards.

The Part Certification Program should accomplish this goal by enabling part manufacturers, on the basis of quick and inexpensive, but reliable means, to serve notice to the public that there parts are equivalent to the original equipment parts with respect to their impact on emissions, and further that no emission warrantly claim may be denied by a vehicle manufacturer on the basis of the ues of that part.

Thus, the Part Certification Program should allow full implementation of the emission warranties without disrupting the competitive structure of the automotive aftermarket industry.

DATES: These regulations shall become effective December 26, 1980.

ADDRESS:

Public Docket: Copies of materials relevant to this rule are contained in Public Docket EN-79-8 at the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Gallery One, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460, and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Feldman, Field Operation and Support Division (EN-397), U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, (202) 472-9350.

SUPPLEMENTARY INFORMATION:

Outline of Discussion

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I. Explanatory Statement

A. Background

Section 207(a) of the Clean Air Act, 42 U.S.C. 7541, requires the Environmental Protection Agency (hereinafter "EPA" or "the Agency") to promulgate regulations under which a manufacturer of aftermarket parts may certify that installation of their parts will not cause a vehicle to fail to comply with applicable emission standards. Proposed regulations to establish the Part Certification Program were published on August 8, 1979 at 44 FR 46686 (hereinafter "Proposal"). The Proposal was issued after numerous consultations with the affected industries. In fact, the Proposal itself was based in great part upon a Part Certification Program proposed to EPA by the Automotive Liaison Council (ALC) and the Automotive Products Emissions Committee (APEC). Although these groups consist primarily of representatives of the automotive aftermarket part manufacturing and service industries, they invited and received participation by vehicle manufacturers. In addition, prior to issuing the Proposal, the Agency considered comments received in response to a voluntary questionnaire that was circulated to the affected industry and published on July 9, 1973, at 38 FR 18264 and in response to an Advance Notice of Proposed Guidelines for a voluntary part certification program that was published on November 14, 1974, at 39 FR 40192.

The Agency invited both oral and written comments on the Proposal. A public hearing on the Proposal was held in Chicago, Illinois on October 3 and 4, 1979. In addition, the Proposal stated that EPA would accept written comments received on or before November 12, 1979. Although this comment period was in excess of that required by the Act, the Agency later granted requests by representatives of the automotive aftermarket industry for an extension of time to comment on the Proposal. See 44 FR 62915 (November 1, 1979). The extended period ended on January 15, 1980.

The Agency considered all comments received during the comment period. A summary and analysis of the comments may be found at VI-1, Public Docket EN-79-8. In addition, the major comments are discussed in the relevant sections of this preamble.

As previously stated, the primary purpose of the Part Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from implementation and enforcement of the Section 207 emission warranties, while at the same time assuring that certified parts do not cause vehicle emissions to exceed Federal standards. The following is a brief explanation of the potential anticompetitive impacts of the warranties and a discussion of how the Part Certification Program will accomplish the above stated purpose.

Section 207(a)(1) of the Clean Air Act (herinafter "Act") requires all vehicle manufacturers to warrant that each new vehicle is free from defects in materials and workmanship which cause the vehicle to fail to meet applicable emission-related regulations for its useful life. In addition, Section 207(b) of the Act requires the Agency to promulgate regulations requiring vehicle manufacturers to warrant the emission control devices and systems of each new vehicle such that if the vehicle, although maintained and used in accordance with the manufacturer's written instructions, fails an EPA-approved emission short test, the cost of repairing the emission control devices or systems will be borne by the vehicle manufacturer. These regulations have been promulgated at 45 FR 34829 (May 22, 1980) and took effect beginning with 1981 model year vehicles.

The use of inferior quality parts can cause a vehicle to exceed emission standards in one of two ways. First, a part, such as a catalytic converter, can directly cause the vehicle to exceed emission standards by failing to perform in the same manner as the original equipment part (hereinafter "OE part"). Second, a part can indirectly cause emission standards to be exceeded by operating in a manner adversely affecting another part, which in turn causes vehicle emissions to increase.

Vehicle manufacturers, in order to protect themselves from being required to pay for warranty repairs necessitated by the use of inferior parts, have

specified in the maintenance and use instructions provided to new vehicle owners that vehicles should be maintained and repaired with only OE parts or parts equivalent to OE parts. Further, these instructions have stated that the vehicle manufacturers will not be responsible for any emission warranty repairs necessitated by the installation of a non-equivalent part.

Prior to the issuance of these regulations, there was no way for vehicle owners to identify parts that were equivalent to OE parts from an emission standpoint. Therefore, although vehicle owners did not necessarily lose emission warranty coverage by using equivalent replacement parts, absent the Part Certification Program, the only way a car owner could be absolutely certain that his or her vehicle remained eligible for free emission warranty repairs was to use OE parts.

As a result of the situation discussed above, in December 1974, the House Subcommittee on Environmental Problems Affecting Small Business found that the maintenance and use instructions, coupled with the emission warranties, created a psychological and financial tie-in between the new car owner and OE parts for 5 years or 50,000 miles.[1] On the basis of this finding, the Subcommittee concluded that the 5 year/50,000 mile warranty provisions of the Act were anticompetitive and provided the means by which the major vehicle manufacturers could monopolize the authomotive aftermarket part industry to the serious detriment of the over 1,700 independent parts manufacturers and 22,000 wholesalers and distributors.

Because of Congress concern that the emission warranties could have an anticompetitive effect, Section 207(a) of the Act was amended in August 1977, to require EPA to promulgate regulations establishing an aftermarket part certification program under which part manufacturers could assure vehicle owners that use of their parts would not void the vehicle's emission warranties. These Part Certification Regulations fulfill that mandate.

B. General Comments

Many commenters supported the general concept of the Part Certification Program, although many of them objected to one or more of the particular provisions. On the other hand, a number of commenters criticized the concept of the Part Certification Program. Many of these parties, especially individual part manufacturers or service facilities, objected to the idea of government regulation extending to aftermarket parts. Much of their objection appeared to be based upon a belief that the Part Certification Program would be mandatory and might put significant portions of the automotive aftermarket parts industry out of business.

The Part Certification Regulations should not put any party out of business. The Part Certification Program will be voluntary. No party will be required to comply with any of the requirements of the Part Certification Program unless it choses to do so. No penalty will be assessed against any party choosing not to certify.

Some commenters, such as the Automotive Service Industry Association, allege that despite the fact that EPA will not require part manufacturers to certify parts, the Part Certification Program will still be compulsory. To support this assertion, these commenters point to the different treatment provided to certified parts and uncertified parts under the emission performance warranty regulations. Under the emission performance warranty, vehicle manufacturers are required to perform warranty repairs when the need for such repairs results from the use of a certified automotive aftermarket part. However, vehicle manufacturers may deny emission warranty claims when a repair is necessitated by a non-certified aftermarket part. This they state, will result in part manufacturers' being required to certify their parts to stay competitive with those manufacturers that do choose to certify their parts.

The Agency agrees that consumers who choose to use certified parts will receive protection beyond that provided to consumers who chose to buy non-certified parts. Moreover, the Agency agrees that this additional protection may result in vehicle owners' choosing to purchase certified parts over non-certified parts. However, the Agency does not agree that this amounts to making participation in the Part Certification Program mandatory rather than voluntary, as Congress had intended. As stated above, no party is required to certify their parts. Parties choosing not to certify may continue to sell their parts as they have before. As such, the program is not "compulsory."

The Clean Air Act states that no emission performance warranty may be invalid on the basis of use of a certified part. However, the Act is silent as to the effect of non-certified parts on the warranty. Therefore, EPA believes Congress intended for additional protection to be provided to consumers that purchase certified parts, while other parts are treated as they were prior to the regulations.

The Agency has reason to believe that the installation of a certified part will not cause a vehicle to exceed Federal emission standards, as any part tested as meeting the requirements of these regulations should not adversely impact vehicle emissions. On the other hand, the Agency has no basis upon which to judge the emission impact of a non-certified part installed on a vehicle. Therefore, the Agency believes that the different treatment afforded certified and uncertified parts in the emission performance warranty regulations is valid and in accord with the Act.

Each part manufacturer will, of course, use its own judgment whether to certify its parts. However, EPA has purposefully structured the program so that any party who manufactures sound parts and uses reasonable quality control should be able to certify with minimal expense or difficulty.

EPA's Section 207(b) emission performance warranty regulations prohibit vehicle manufacturers from denying warranty claims on the basis of certified parts. The vehicle manufacturers argued in their comments to this rulemaking that this prohibition is contrary to the Act and asserted that EPA placed too much significance on the Part Certification Program. In particular, the vehicle manufacturers argued that Congress did not intend that they be held responsible for certified parts which cause individual vehicles to exceed emission standards. The Agency does not agree. Section 207(b) of the Act clearly provides that no emission warranty claim shall be invalid on the basis of the use of a certified part. The rationales for this requirement, as well as its benefits, have been fully discussed during the rulemaking for the emission performance warranty cited above and are summarized at a later point in this document.

Some of the parties who supported the proposed ALC/APEC program in general believed that EPA departed from the spirit of the program by adopting certification requirements in the proposal that were additional to or different from those recommended in the ALC/APEC program. EPA realized that some of its proposed revisions to the ALC/APEC program were significant. However, the Agency made these changes in an effort to protect consumers who purchase the certified parts, and also to minimize the possibility that the use of these parts will cause in-use vehicles to exceed

[1] Subcommittee of the Permanent Select Committee on Small Business in a Report on the "Monopolistic Tendencies of Auto Emission Warranty Provisions" H.R. Rep. No. 628, 93d Cong., 2nd Sess. 30 (1974).

emission standards. EPA has carefully studied the comments relating to its revisions, and has made modifications in the final rule where appropriate. A discussion of the individual revisions is contained in the relevant sections of this preamble.

Some parties, particularly representative of the tire industry, also questioned EPA's decision that this regulation does not require a full Regulatory Analysis pursuant to the President's Executive Order 12044. Under the Executive Order, EPA would be required to prepare a full Regulatory Analysis if the regulation would have annual costs associated with it of more than $100 million for any of the first five years from the effective date, or if the regulation would cause a 5 percent increase in the cost of any item.

As stated in the Economic Analysis prepared in support of the Proposal, the costs associated with this program will be insignificant and are such that a Regulatory Analysis is not required. Further, the commenters failed to supply any significant economic data supporting their statements. If the costs of the program are as significant as alleged by certain members of the industry, then it is unlikely that any party will choose to certify its parts and, therefore, these costs will not be incurred. In any case, EPA has made modifications to the Proposal which should satisfy many of the cost-related concerns that were raised in the comments. These modifications are discussed in the appropriate sections of this preamble.

The Agency has made every attempt to minimize any burdens of the program on the affected industry. With minor modifications, the emission critical parameters and test procedures specified for demonstrating compliance with these parameters were developed by APEC. EPA believes that most, if not all, of this testing is little more than is presently being performed by much of the industry as sound quality control.

C. Outline of Certification Procedure.

The Part Certification Program is basically the same as that contained in the Proposal. The certification of parts pursuant to this program will be voluntary. Moreover, it will be a self-certification program. That is, all testing and evaluations necessary for certifying a part will be conducted by the part manufacturer. EPA will have only an oversight role. However, in its oversight role EPA may randomly purchase certified parts from retail outlets and perform the necessary tests on preselected parts to assure that these parts were properly certified.

Certification by the part manufacturer will be made on the basis of completion of the tests and analyses which demonstrate compliance with the applicable Emission Critical Parameters set forth in the regulations or on the basis of back-to-back emission testing. Once a manufacturer has complied with the requirements of these procedures, it may represent the applicable parts to the public as "certified to EPA standards." The use of parts certified in accordance with these regulations will assure continued emission warranty coverage.

Although the certification will be made by the part manufacturer and not EPA forty-five days prior to selling a part as certified, a part manufacturer will be required to send a notice of its intent to certify the part to EPA. EPA will put a copy of this notice in Public Docket EN–79–8. During the forty-five day period, EPA may object to the intent to certify, in which case more information will be required to be submitted to EPA. If EPA takes no action, or the part manufacturer adequately addresses all questions raised, the part manufacturer will be able to sell the part as certified without any further communication with the Agency. Thus, part certification will normally be automatic.

Because this is a self-certification program in which EPA, under normal circumstances, will not be directly involved, part manufacturers will be required to establish and maintain records which contains descriptions and results of all certification tests performed on the parts, as well as other information relating to the integrity of the parts and the certification procedures utilized. This information shall be available to EPA upon written request and may be considered by EPA when making determinations of whether a part should be decertified. The regulations provide criteria and procedures whereby EPA may decertify parts it determines are not in compliance with these regulations.

II. Specific Provisions

The major sections of the regulations are discussed below. Included in these discussions are the major comments made concerning each section, as well as the changes brought about by those comments. In addition, a summary and analysis of comments may be found at V1–1 Public Docket EN–79–8. A more detailed discussion of the basic provisions appears in the preamble to the Proposal, 44 FR 46686 (August 8, 1979).

A. General Applicability

Under the Proposal, any automotive aftermarket part that affects emissions, including tires, would have been eligible for certification. EPA received a great deal of negative comment on this broad applicability provision. Most of the comment concerned the inadvisability of certifying tires. Some commenters asserted that if tires could be certified, then surely mirrors which impact on wind resistance, shoud be eligible for part certification. Inclusion of such parts, the commenters stated, would complicate the program and lead to the entire program becoming ineffective.

Although virtually all of the commenters agreed that the proposed eligibility provision was too broad, they differed over exactly which components should be eligible for certification. The vehicle manufacturers took an extremely narrow view of what should be covered under the warranty. General Motors Corporation (hereinafter "GMC") asserted that certification should be limited to those parts covered by the Section 207(b) warranty for a vehicle's full useful life. GMC appears to have confused the intent of Congress in limiting the definition of "emission control devices and systems" for the purpose of emission performance warranty coverage under Section 207(b) with Congressional intent regarding eligibility under the Part Certification Program. Contrary to GMC's assertion, there is nothing in the Act or its legislative history indicating that Congress intended that the Part Certification Program should cover only those parts warranted for the full emission performance warranty period. Rather it is clear that Congress was well aware that other items, such as spark plugs, air cleaner elements, etc., impact upon a vehicle's ability to meet applicable emission standards and might be cited as a basis for denying an emission warranty claim at any time during a vehicle's useful life. Certainly Congress intended for these parts to be eligible for the certification program.

The Agency believes that to carry out the purpose of Section 207(b) it is important that no parts affecting emissions be excluded from the Part Certification Program. The Agency believes that if a part is of a kind that could fail in a manner that would cause a vehicle to exceed applicable emission standards, as adjudged by an applicable short test, then it should be eligible for certification. Otherwise, it could be argued that a vehicle owner would, in effect, be forced into purchasing an OE part or facing a possible warranty claim denial by a vehicle manufacturer on the

basis that his or her vehicle failed an emission short test as the result of a non-equivalent replacement part, rather than as a result of a failed "emission control device or system." The Agency believes that this is exactly the choice that Congress does not want the consumer to have to make.

Therefore, all emission-related components are eligible for the certification program. However, the final regulations have been revised to permit only parts for which EPA has identified Emission Critical Parameters to be certified.[2] This will prevent any potential abuse of the program by manufacturers of parts with no impact on emissions. More importantly, however, this limitation will prevent vehicle manufacturers from automatically certifying all emission-related components on a vehicle at time of sale and, thereby, obtaining a market advantage over independent part manufacturers who, without the availability of a simple and inexpensive bench test will be forced to conduct a full Federal Test Procedure to certify their parts or risk having car owners purchase only OE certified parts. (The vehicle manufacturers could have done this by asserting that the vehicle certification emission tests satisfy the emission-testing requirements of these regulations.) The Agency realizes that only a few parts presently have identified Emission Critical Parameters, but the Agency decided that this limitation is necessary to avoid the above-mentioned potential anticompetitive situation which could frustrate the "pro-competitive" intent of Section 207(a)(2) of the Act. The Agency hopes that APEC, individual part manufacturers, vehicle manufacturers or other interested parties will assist the Agency in developing standards for additional parts.

For the present, "add-on" and "modified" parts are not included in the Part Certification Program. This is because at present there are no Emission Critical Parameters identified for such parts. The Agency received numerous objections to the inclusion of these parts. Vehicle manufacturers do not believe they should be held responsible for such parts under the emission warranty. In addition, EPA also received comment from representatives of the add-on part industries indicating that full Federal testing would be so time-consuming and expensive that absent an alternative method of certification, the Proposal did not provide a realistic opportunity for the certification of add-on or modified parts. Therefore, the Agency has deleted, for the present, such parts from the program. The Agency has not, however, made a final determination to exclude such parts from the Part Certification Program. Rather, EPA will reserve judgment on this issue until such time as a quick and inexpensive but reliable test for emission impacts of add-on parts is identified. The Agency notes, however, that its policy will be that any party installing any part, including an add-on part, that has successfully been emission tested in accordance with Section 85.2114, will not be considered to have tampered with a vehicle in violation of section 203(a)(3) of the Act.

Another issue raised by the commenters concerns the first model year for which parts may be certified. Some commenters argue that Section 207(a)(2) of the Act indicates that the purpose of the Part Certification Program is to carry out the purposes of Section 207(b) of the Act. These commenters assert that since the Section 207(b) emission performance warranty will not be in effect for pre-1981 model year vehicles, no part should be eligible for certification for pre-1981 model year vehicles. Although this interpretation has some appeal, the Agency continues to believe that part manufacturers should be able to certify parts for vehicles not covered by the Section 207(b) emission performance warranty. First, since 1977, the Act has required vehicle manufacturers to include a statement with their written instructions for proper maintenance and use that "* * * maintenance, replacement, or repair of the emission control devices or systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2)." Since Congress, although apparently aware that the warranty could not possibly be implemented until the 1979 or 1980 model year, still required the language beginning with the 1977 model year, presumably it intended that vehicles not covered by the emission performance warranty have certified parts available as replacements. Otherwise, Congress could have specifically required that only vehicles covered by the section 207(b) emission performance warranty contain the above quoted statement.

Finally, this interpretation makes sense because although the primary purpose of the Part Certification Program is to carry out the purpose of Section 207(b), the program offers additional benefits. For instance, it provides consumers with additional information concerning automotive aftermarket parts. This information could be especially useful to owners of vehicles that are covered by the Section 207(a) emission design and defect warranty. Although a Section 207(a) warranty claim may be denied if a part failure results from a defective certified part, vehicle owners will at least be able to ascertain which parts are equivalent to the OE parts and thus avoid the situation where a part, such as a catalyst, fails because of a non-equivalent replacement part, such as a non-equivalent spark plug. In addition, repair facilities that install certified parts can do so without fear of violating the tampering prohibition of section 207(a)(3) of the Act. The Agency believes Congress intended that such benefits as these be available for parts manufactured for pre-1981 model year vehicles. Moreover, since vehicles manufacturers will not incur emission performance warranty liability for such parts prior to the 1981 model year, the decision to allow certification of parts for use in earlier model year vehicles should not cause the vehicle manufacturers any harm.

For the above reasons, the regulations provide that a part may be certified for 1968 or later model year vehicles, 1968 being the first model year for which vehicle emissions were regulated by the Federal Government.

A final issue is whether heavy-duty and motorcycle parts may be certified. The regulations provide only for the certification of light-duty vehicle and light-duty truck parts. This is because the Agency has not presently considered all the ramifications of establishing a program for motorcycle and heavy-duty engine part certification. In addition, there is presently no Section 207(b) emission performance warranty for these parts. The Agency, however, is interested in receiving input from representatives of these industries. EPA may propose amendments to the regulations in the future to allow for the certification of motorcycle and heavy-duty engine parts.

B. Definitions

Some of the definitions contained in the Proposal have been modified or deleted. First, since only parts for which emission critical parameters have been identified may be certified, and since at present there are no such parameters

[2] The regulations will still provide that parts having emission-critical parameters may be certified via emission testing rather than via compliance with emission-critical parameters. This will allow manufacturers of functionally-equivalent parts to certify. As such, these regulations will not stifle innovations in the automotive aftermarket.

identified for add-on parts, the regulations speak only in terms of "Aftermarket Parts" and do not distinguish between different types of aftermarket parts. The Agency has, therefore, adopted the definitions of "Aftermarket Part" as well as "Certified Aftermarket Part" that were contained in the ALC proposed program.

The Agency has also amended the definition of "Emission Critical Parameters." The Agency believes that the language provided by APEC in its testimony at the hearings is in accord with the Agency's original intention. That is, the Agency believes that conformance to the "Emission Critical Parameters" should establish that a part is equivalent to the OE part from an emissions standpoint. Since much of the automotive aftermarket industry is apparently more comfortable with the definition supported by APEC, and because it is in accord with EPA's intent, the Agency has adopted the APEC definition.

C. Basis of Certification

Under the proposal, as in the final rule, part manufacturers will be offered two means to certify their parts: (1) Tests and analyses which demonstrate compliance with the applicable Emission Critical Parameters; or (2) back-to-back emission testing.

Some commenters, including some of the vehicle manufacturers, asserted that in order to comply with the Clean Air Act mandate, only parts which have been subjected to full emission testing, including durability testing, and utilizing the full Federal Testing Procedure, should be allowed to be certified. They claimed that the proposed Emission Critical Parameters, as well as the test procedures set forth to demonstrate compliance with these parameters, were not rigorous enough to assure compliance with the Act's requirement that use of a certified part not cause a vehicle to exceed the applicable standards under section 202.

The Agency does not believe that Congress intended that part manufacturers be required to undergo extensive and prohibitively costly emission testing prior to certifying their parts. The Agency believes that Congress was aware of the ANPG, which devised a program very similar to this one when it included the aftermarket part certification provisions in the Clean Air Act, and that it intended EPA to establish a similar program by these regulations. The Agency further believes that Congress, by including the aftermarket part certification provisions, was attempting to preserve the competitive marketplace of the automotive aftermarket. Certainly Congress was aware that such an attempt would be futile if in order to certify their parts the part manufacturers were forced to conduct the full Federal Test Procedure and also conduct the same durability testing that is required of vehicle manufacturers. Few manufacturers, especially small manufacturers of inexpensive parts, would ever choose to participate in such a program.

The Agency believes that compliance by part manufacturers with the Emission Critical Parameters set forth in the final rule represents the type of burden Congress itended to be placed upon part manufacturers, yet will still provide reasonable assurance that the parts do not cause vehicles to exceed applicable emission standards. The Emission Critical Parameters, as well as the relevant test procedures, have been slightly modified from the Proposal. The modifications are based upon comments received by vehicle manufacturers and the automotive aftermarket industry. A discussion of the comments received on the standards and test procedures is contained in a separate support document at Public Docket EN–79–8.

The vehicle manufacturers were particularly concerned that compliance by part manufacturers with the requirments of the Proposal would not assure that parts are reliable or durable. On the other hand, representatives of the automotive aftermarket industry asserted that it was improper for the Agency to establish any durability requirements for most parts. Rather, these representatives asserted that because of the unknown condition of a vehicle in which a part is to be installed, it would be impossible to guarantee durability. Therefore, these parties asserted that the part manufacturer should be required to show no more than that a new part, in an otherwise properly operating vehicle, would meet the Emission Critical Parameters.

The Agency believes that it is imperative that only durable parts be certified. Otherwise it would be possible for properly certified parts to deteriorate in use so as to cause a vehicle to exceed standards and perhaps cause the failure of other components. If this were to happen, vehicle manufacturers could incur unwarranted (although reimbursable) emission warranty expenses. On the other hand, EPA does not believe that it must set elaborate procedures for assuring durability similar to the durability procedure prescribed in 40 CFR Part 86. The Agency does expect, and requires, that part manufacturers perform such tests and analyses necessary to assure that their parts will be durable. In many instances EPA believes that the durability aspects of a part could be somewhat of an issue in-use. For these parts EPA has set our specific durability requirements. However, in some instances, the Agency believes that setting specific durability testing requirements is unnecessary. In those instances the Agency believes that market pressures, the warranty requirement, and the Agency's ability to decertify a part which is not durable are sufficient to assure that certified parts are, in fact, durable.

Some commenters suggested that the Agency allow part manufacturers to certify parts on the basis of "short tests" rather than the full Federal Test Procedure. These parties stated that since vehicle manufacturers will incur Section 207(b) emission performance warranty liability only when a vehicle fails an EPA-approved short test utilized in a state or local emission inspection and maintenance program, and since the primary direction from Congress for the Part Certification Program is to carry out the purposes of Section 207(b) of the Act, it makes sense that part manufacturers should be required to show no more than that use of a part will not result in the failure of a vehicle to pass a short test. Moreover, the commenters point out that any EPA-approved short test will have been found by the Agency to correlate with the Full Federal Test Procedure.

While this argument has considerable appeal, a closer analysis of the implications of allowing part manufacturers to certify parts using any of the existing emission short tests demonstrates that such an approach would be unwise. First, although the EPA-approved short tests correlate with the full Federal Test Procedure in that if a vehicle fails a short test it will almost certainly fail the full Federal Test Procedure, the short tests do not, in themselves, demonstrate compliance with Federal Emission Standards. The tests are designed only to catch excessively polluting vehicles. In some instances vehicles which exceed one or more applicable emission standard will pass emission short tests. Therefore, mere compliance with a short test would not allow a manufacturer to certify "that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202" as is set forth in the Act. This is particularly true since presently none of the EPA-approved short tests have been demonstrated to

correlate with NO_x emissions which are regulated under section 202 of the Act.

Consequently, the Agency will not allow a part to be certified on the basis of the short tests approved to date. The Agency is still, however, interested in the development of a short test that could be used as a basis for part certification.

The Agency realizes the time and expense associated with conducting the full Federal Test Procedure. EPA, therefore, requested comments on whether portions of it could be deleted during part certification testing. The Agency received no workable suggestions. However, in an effort to lessen the burden of certifying parts on the basis of emission testing, the Agency has decided to adopt the comment of the Specialty Equipment Manufacturers Association and reduce the number of required tests for each part from four to two. Moreover, the tests will only be required to be performed on a vehicle in which the part has been installed, rather than additionally requiring the test to be performed on the vehicle with the original equipment part installed. As explained below, the Agency believes that this procedures provides a sufficient basis upon which to assure that a part will not cause a vehicle to exceed applicable emission standards, while providing a more realistic opportunity for a part manufacturer to certify a part. Moreover, it is unlikely that any part so certified, especially if merely a replacement part, would cause any change in vehicle emissions.

As a result of this change it will be possible for a part manufacturer to demonstrate only that proper installation of a certified part will not cause vehicle emissions to exceed standards, rather than showing also that use of the part will not cause vehicle emissions to be increased as would have been required under the Proposal. The Agency realizes that under this approach it is theoretically possible that use of a part so certified could cause emissions to increase slightly, and that use of a number of such parts (each causing a slight increase in emissions) in a single vehicle could cause the vehicle to exceed emission standards and perhaps fail a short test. However, as discussed below, the Agency believes that the emission-testing requirement is stringent enough so that such a possibility is not great and is certainly offset by the cost savings of requiring only two emission tests rather than four. Therefore, the Agency has decided to require only two tests on one vehicle. If parts other than replacement parts are later included in the program, the Agency may review this requirement with respect to those parts.

The Agency believes that this change will not result in vehicle manufacturers' incurring additional warranty expenses. This is particularly true given the fact that the current emission short tests that trigger emission warranty liability are not as stringent as the Federal Test Procedure. It is unlikely that the cumulative impact of parts certified in accordance with the specified emission test procedures would cause a vehicle to fail applicable emission standards, much less to result in a failure of these current short tests.

There seems to be some confusion by the commenters as to how manufacturers of original equipment parts may certify their replacement parts. In cases where a replacement part is truly identical to the part used in the assemblyline, testing to determine compliance with the emission critical parameters would be unnecessary. Therefore, the manufacturers of such parts could certify with no testing. However, this does not mean that a manufacturer of original equipment parts or vehicle manufacturers may automatically certify replacement parts that are not identical to those parts installed on the assemblyline. For those parts, vehicle manufacturers, or their suppliers would have to perform tests necessary to show compliance with these regulations. Moreover, the fact that a replacement part is equivalent to an OE part, such that no additional emission-related testing is necessary, does not exempt the manufacturer of the part from any other requirements of these regulations including labeling, sending a notification to EPA, or warranty responsibility.

Many representatives of aftermarket part manufacturers objected to the provision of the proposal which would require that no part having a shorter service or maintenance interval could be certified if any EPA regulation establishes a minimum replacement or service interval for a part during vehicle certification. These parties focused on the condition of in-use vehicles and differences between in-use and certification vehicles. Thus, they stated, it is unreasonable to hold automotive aftermarket parts to intervals required of OE parts on certification vehicles.

The Agency believes that all present minimum certification maintenance interval requirements are achievable on in-use vehicles, because they have been achieved on in-use vehicles for some time. Moreover, as stated in the Preamble to the Proposal, the Agency believes that holding vehicle manufacturers to specific maintenance interval requirements, while allowing replacement parts to be certified that do not meet such requirements, would defeat the purposes of the regulations. For instance, one such purpose is to assure that maintenance is not required to be performed at intervals so frequent that an owner is unlikely to comply. Therefore, the final rule provides that no part may be certified that requires servicing or replacement more frequently than any minimum interval specified for that part in 40 CFR Part 86.

Another objection of some of the automotive aftermarket industry concerns the requirements in the regulations that certified parts not severely degrade vehicle performance or contribute to an unsafe driving condition. According to these commenters, the Part Certification Program should concern itself only with emission characteristics of parts.

The Agency does not agree. The Agency believes that to allow an unsafe part to be certified would be contrary to the public interest. Moreover, if a part contributes to poor vehicle performance, such poor performance could provide an incentive for a person to alter emission control devices and systems in an attempt to obtain improved performance. This could have a negative air quality impact.

D. Notification of Certification

As previously stated, the Agency normally will not be directly involved in the part certification process. However, because it is important for EPA, as well as other interested parties, to be aware of which parts are certified and for which vehicles the parts are certified, the regulations require a notification of intent to certify a part to be sent to EPA by the part manufacturer 45 days prior to the proposed date of sale of the part as certified.

As proposed, the part manufacturers would have been required to submit the notices of intent to certify 60 rather than 45 days prior to sale of the part as certified. Some commenters felt that this was too long a time period, perhaps so great as to be anticompetitive. The Agency does not agree that the 60-day period would necessarily have been anticompetitive. The Agency notes that the parts may be sold even if not certified. Moreover, the regulations allow for the certification of existing stock. Therefore the 60-day period would not cause a delay in getting parts on the market. However, the Agency does not want to force undue delays in the sale of certified parts. Therefore, the Agency limited the period to 45 days, a period in which the Agency believes it can properly review the notices for

completeness, become alerted to potential problems, and notify a part manufacturer of any potential problems, if necessary.

Some of the vehicle manufacturers suggested a longer period between receipt by EPA of the notice of intent to certify and sale of parts as certified. However, this request appears to be based upon a belief that vehicle manufacturers should be able to test each part prior to its sale as certified. The Agency does not believe that it is necessary for vehicle manufacturers to do so. The vehicle manufacturers do not approve the certification of parts. Although a vehicle manufacturer, like any other party, can provide information to EPA regarding a certified part, the vehicle manufacturer has no direct role in the part certification process, and therefore cannot block a part from being certified. Rather the vehicle manufacturers can check a notice of intent to certify and if an obvious problem is found, such as an inadequate test procedure, or if the vehicle manufacturer believes that the part has in the past caused vehicle problems, including adverse impacts on vehicle emissions, the Agency expects that the vehicle manufacturer would inform EPA. If EPA believed that the vehicle manufacturer had a legitimate concern, then it would request further information from the part manufacturer prior to the part being sold as certified. If EPA disagreed, then the part could be sold as certified at the end of the 45-day period. As a result of this procedure, part manufacturers would not have to delay certification of a part pending testing of the part by a vehicle manufacturer or approval of the part by a vehicle manufacturer. This procedure is consistent with the legislative history of the part certification provision, which makes clear that vehicle manufacturers would not be directly involved in the part certification process. S. Rep. No. 95–127, 95th Cong., First Sess. 81 (1977).

Not all of the vehicle manufacturers expressed a desire to test certified parts. GMC stated that it did not even want to receive copies of the notices of intent to certify. GMC argued that if they received such notice and did not object to it, such could be construed as an approval, which for a number of reasons GMC is not prepared to give.

The Agency, therefore, has eliminated the provision requiring a copy of the notice of intent to certify to be sent to vehicle manufacturers. The Agency will, however, place all such notices received in a public docket so that any party, including vehicle manufacturers, interested in reviewing the notices can do so.

In response to comments that the information required to be covered by the notice was too extensive, the Agency has modified the requirements somewhat. The Agency believes that all information required to be submitted by the final rule is necessary and that the requirement is not burdensome.

One major change in the notice is that the final regulations require a person to sign the notice and attest to its correctness. This should help prevent fraudulent certifications by part manufacturers, as the person signing the notice would be liable under section 113 of the Clean Air Act, as well as 18 U.S.C. 1001, for submitting false documents to the government should that person knowingly represent that a part complies with the terms and conditions of these regulations when in fact it does not. This should satisfy some of the concerns of the vehicle manufacturers who expressed a view that although the majority of the automotive aftermarket is reputable, the regulations provided an opportunity for a small minority of unscrupulous parts manufacturers to take advantage of the system.

E. Objections to Certification

Section 85.2116 of the final rule is virtually identical to that of the Proposal. Anytime during the 45-day period between receipt by the Agency of a notice of intent to certify and the intended first day of sale of that part, the Agency may notify the part manufacturer that the part may not be sold as certified, pending further investigation. Sections 85.2116(a)(1)–(6) set forth the bases upon which the Agency will send such notices.

Interested parties, including the part manufacturer, will have an opportunity to comment in writing to the Director of the Manufacturer's Operations Division on any EPA letter objecting to a part certification. In addition, the Director may allow oral presentations. After deciding whether the part in question may be certified, the Director will notify, in writing, the part manufacturer and any other identified interested party of the decision. Any interested party adversely affected by such decision may appeal to the Deputy Assistant Administrator for Mobile Source, Noise and Radiation Enforcement.

The major comments on this provision, such as those on the Agency's authority to disallow a part from being certified for reasons other than a part's impact on vehicle emissions, have been discussed in the previous section of the preamble and will not be repeated here. However, there are other comments which should be discussed at this point.

Some parties noted that once EPA objected to the certification of a part, there was no time deadline in which EPA would be required to make a final decision. They asserted that the Agency could delay a decision for an unreasonable period of time and in the interim, the manufacturer of such part would not be able to certify the part and might lose its ability to compete for sales of that type part. Therefore, these parties stated that a time deadline should be set in which EPA would be required to make such decisions.

The Agency has decided to set time periods during which the Director and the Deputy Assistant Administrator will be required to act. The Director will render a decision within 30 days from the date he or she has received all necessary information from the part manufacturer or other interested parties. The Deputy Assistant Administrator will likewise have 30 days to act, in cases that are appealed. The Agency will make all such decisions as quickly as possible and does not expect that the full 30 working days will be necessary in most instances. In the meantime, the Agency notes that even if an objection to certification is pending, the parts may be sold as before, although not sold as certified.

A few parties asserted that neither the Director nor the Deputy Assistant Administrator are neutral parties in matters of whether a part should be allowed to be certified, and that a neutral party should be the arbiter. The Agency does not agree that the Director and the Deputy Assistant Administrator are interested parties such that they will not make their respective determinations fairly. Moreover, the Agency believes that only these parties will have enough familiarity with the part certification program to be able to make timely decisions as to a part's eligibility.

F. Labelling Requirement

Perhaps the most widely objected to provisions of the Proposal were those containing the proposed labelling requirements. Virtually all parties criticized the amount of labelling that would have been required for each certified part. At the public hearing, parts were displayed that were extremely small. The persons displaying these parts questioned whether these parts could in fact be labelled in accordance with the proposed requirements. In addition, these parties asserted that the packaging for these parts would have to be disproportionately large to display all of

the information required under the Proposal.

The Agency has reviewed the comments regarding the labelling requirements and has reduced the requirements significantly.

The Agency received numerous comments pointing out that, in the past, the aftermarket parts industry has successfully used parts catalogs and service manuals to provide engine application and installation instructions to all segments of the service industry. These parties asserted that if the Part Certification Program is to be workable, the final regulations must be written to utilize these effective aftermarket methods.

Although GMC was one such commenter, it also presented a series of catalogs showing the part numbers and their application to model years and vehicle models to depict the magnitude of the current problem involving the cross referencing of GMC aftermarket parts and applications alone. This problem, GMC asserts, would drastically increase if it is required to catalog all certified aftermarket parts.

For the reasons pointed out by GMC, EPA desires that, to the extent practicable, all certified parts be marked "certified to EPA standards." This way vehicle manufacturers could quickly determine whether a part was certified and in most circumstances would not have to check the manuals to determine that fact. However, due to the objections of the various parties to requiring individual parts to be labelled, the Agency has decided to omit this requirement from the final rule, providing the parts are marked as discussed below. The Agency does not believe that this change will cause vehicle manufacturers much difficulty.

First, the Agency expects that aftermarket parts will not frequently be the cause of a properly maintained and used vehicle's failure to pass a short test. Second, in those few cases where they are the cause, it should not be difficult for the vehicle manufacturer to check a catalog to see if the part in question is certified.

In order for a vehicle manufacturer to make such a check, it is important that the part manufacturer include information in its catalogs on which parts are certified and for which vehicles the part is to be used. In addition, it is important that each part be marked in a manner such that it can be identified. Such marking should include the manufacturer identification and part number.

The Agency realizes that there are situations where one part manufacturer produces identical parts which are supplied to different parties who, in turn, market the parts in different packages under their own brand names. The final rule does not require that such parts be marked differently, provided they are all sold as certified (even if certified by different parties), and the original manufacturer or some other responsible party agrees to be responsible for in-use provisions of these regulations.

The information required on the package of a certified part remains substantially the same with a few significant exceptions. First, a package need not list all model vehicles for which a part is certified if that information is provided in a catalog rather than on the package, provided access to the catalog is readily available to purchasers of the part. It makes little sense to require parts to be certified unless one is able to determine for which vehicles the part is certified. Therefore, the Agency requires that such information be available to the purchasers of such parts.

Second, the packages no longer need to have a general warranty disclaimer, as EPA believes that it may have overestimated the owner confusion that could result absent such a disclaimer.

The Agency believes that all of the required labelling information is important.

The statement "certified by (name of manufacturer) to EPA standards" is important. This is because consumers should be informed that the parts are certified by the part manufacturer and not by EPA.

If a part has a service interval which is shorter than the service interval for the OE part it is replacing or requires maintenance beyond that required of such OE part, it is important that the vehicle owner be apprised of such. Otherwise, the owner is likely to follow the instructions in the owner's manual and the part is likely to fail in a manner that could cause the vehicle to exceed emission standards and could, in some instances, cause serious and costly vehicle damage which would only be repaired at the owner's cost. Therefore the regulations require that information on any servicing required by a replacement part which goes beyond that required by the OE part replaced must be provided to the vehicle owner.

For the same reasons, if a part is to be installed in a manner different from the OE part, it is important that the instructions for proper installation be available.

G. Maintenance and Submittal of Records

Because this is a self-certification program, questions may arise as to whether a part was properly certified initially or should subsequently be decertified. Therefore, any part manufacturer who chooses to certify parts is required to establish and maintain records regarding each certified part. These records must be made available to EPA upon request.

The Agency believes that all of the specified records are necessary to determine the adequacy and validity of the bases upon which parts have been certified and to assure that all parts sold as certified are equivalent to the parts which were used to determine whether a part should be certified. As stated in the Proposal, most of the data that would be required to be maintained would be generated during the process of certifying the parts. In addition, the final rule reduces from the Proposal the requirements for maintaining records concerning in-use emission-related problems. The final rule requires only that the part manufacturers maintain records of any design, production, or in-service emission-related problems associated with more than 25 of a particular in-use certified part.

Some parties objected to the length of time the Proposal would have required the records to be kept. These parties asserted that due to the great number of parts and the 5-year period in which the records would have to be kept, the files of the part manufacturers would be overloaded with records and the maintenance of such records would be costly.

The Agency realizes the cost and inconvenience associated with maintaining records and as a result desires to minimize all recordkeeping requirements to the extent possible. However, should in-use certified parts be the suspected cause of vehicle emission-related problems, it is important that the Agency have access to the records required to be kept by this rule. The Proposal required the records to be kept for five years because vehicle manufacturers are subject to warranty liability for up to 5 years for each model vehicle, and it is during this period of time that problems with certified parts are most likely to be detected. The Agency notes, however, that some parts will be certified for vehicles which are no longer covered by the warranty or for which the remaining emission warranty period is less than 5 years. For such parts, the part manufacturer will be required only to maintain the records for only 3 years or until the part

manufacturer determines that approximately 80% of all vehicles for which the part has been certified are outside the period of warranty coverage, whichever is longer. However, no records must be kept for more than 5 years. The Agency realizes that, in some cases, the records may not be available for parts on some vehicles that might still need an emission warranty repair. However, in most cases the Agency should have been alerted to problems with parts during the required period. Moreover the lack of records will not prevent a vehicle manufacturer from seeking reimbursement from a part manufacturer. Rather, it may only limit the part manufacturer's ability to demonstrate that the part was properly determined to be eligible for certification.

H. Decertification

The decertification provisions of the final rule have remained substantially unchanged from the Proposal.

Decertification will not occur until the Agency has made a final decision that the part should be decertified. No final decision will be made until after the Agency has provided the part manufacturer with an opportunity to present information and data to the Agency in support of continued certification of that part.

The decertification process will commence when written notice is provided to the part manufacturer indicating the Agency's basis for considering possible decertification of a part. If the part manufacturer wishes to contest this decision, it may provide a written statement addressing why the part should remain certified. Similar to the hearings under § 85.2116, an opportunity to present oral arguments may be granted at the discretion of the Director. In addition, a party adversely affected by a decertification decision shall also have an appeal right similar to the one provided in § 85.2116.

The parties making determinations of whether a part should be decertified are the Director and the Deputy Assistant Administrator. The Agency believes that, contrary to the assertions of some commenters, these parties will be able to make unbiased decisions of whether or not to decertify a part. The Agency encourages part manufacturers to participate in the program. EPA has no reason to try to prevent proper parts from being certified. Moreover, the Agency believes that only these parties will have a sufficient background to make determinations in a timely manner. The Agency believes that improperly certified parts must be decertified as quickly as possible to prevent vehicles from polluting, to prevent vehicle owners from needlessly failing I/M tests, and to prevent vehicle manufacturers from incurring unreasonable (although reimbursable) warranty expenses or from spending too much time handling warranty claims. Since the Agency will not require a part to be decertified until a final decision is made, the Agency believes it is important that the decisionmakers be parties capable of making proper decisions in as short a period of time as possible.

Once a final decision to decertify a part is received by the part manufacturer, the part manufacturer is required to notify its immediate customers (other than retail customers) and offer to replace the decertified parts remaining in the possession of the immediate purchaser with properly certified parts. If no properly certified parts are available, then the part manufacturer must offer to repurchase the decertified parts. This requirement will limit the number of vehicles which will exceed emission standards and fail I/M tests as a result of the decertified part. The Agency realizes that some improperly certified parts will remain on in-use vehicles and in the marketplace. However, in the Agency's opinion, as well as a number of commenters, any replacement or repurchase of parts beyond the immediate customers would become complicated and ineffective.

Regardless of whether a part is eventually decertified, any part previously sold by the part manufacturer as certified will remain certified for purposes of the Section 207(b) warranty. In other words, no Section 207(b) emission warranty claim may be denied on the basis of the use of that part. The part manufacturer, of course, will be liable to vehicle manufacturers for any warranty claims honored where the part is the reason for the failure.

I. Warranty on Certified Parts

Section 207(b) of the Act provides that no emission performance warranty shall be invalid on the basis of a certified part. Based upon this provision, as well as its legislative history, the Agency included a provision in the Section 207(b) emission performance warranty regulations prohibiting vehicle manufacturers from denying emission performance warranty claims resulting from the installation or use of a certified part. A full discussion of this requirement is contained in the preamble to the final emission performance warranty regulations and the comment summary accompanying the final rule. Both of these documents can be found in Public Docket EN–79–6. However, the Agency believes that it is appropriate to repeat some of the discussion here.

The Agency believes that Congress intended that consumers be able to purchase certified parts without having to be concerned about their emission performance warranty coverage. If the Agency were to allow vehicle manufacturers to deny claims by asserting that a certified aftermarket part was the cause of the problem, then vehicle owners would not have this assurance. Rather, vehicle owners would fear that a vehicle manufacturer would merely allege that the part is defective or otherwise improper and deny the claim. This could encourage vehicle owners to use only original equipment, contrary to the legislative intent.

Even if the manufacturers of certified parts warrant that they will reimburse a vehicle owner for repairs that would have been covered under the emission performance warranty had the certified part not been defective, the problem would not be remedied. It will sometimes be difficult for owners to determine whether an aftermarket part caused a vehicle to fail an I/M test because it is defective or because it is not actually equivalent to the OE part it replaced. This could result in neither the vehicle or part manufacturer assuming liability for the repair. If a consumer may be forced to go back and forth between parts manufacturers and vehicle manufacturers, he or she may simply not risk the use of any parts other than OE parts, whether they are certified or not.

In fact, prior to the 1977 Amendments to the Act, EPA had proposed guidelines for a voluntary aftermarket part self-certification program. However, because EPA had no authority to make certification of a part binding on a vehicle manufacturer, the program was considered by many to be anticompetitive and anticonsumer, even if the part manufacturer provided its own warranty with its certified parts. The Senate Select Subcommittee on Environmental Problems Affecting Small Business, in its Report on the Monopolistic Tendencies of Auto Emission Warranty Provisions, H.R. Rep. No. 93–1628, 93rd Cong. 2nd Sess. 31 (December 18, 1974), commenting upon those proposed guidelines, stated:

> The parts certification program merely proliferates the number of warranties without providing any mechanism for adequately determining why the emission control system failed. Thus, should the parts manufacturer dispute the franchised dealer's assertion that the replacement part caused the failure, the consumer is left with no means to resolve the

dispute, other than the court action which would probably be so time consuming as to be prohibitive.

For these reasons the Agency does believe that a Parts Certification Program that did not take the consumer out of such dispute entirely would tend to inhibit the use of certified parts and would not carry out the legislative intent.

Although the Agency requires that a vehicle manufacturer honor an emission performance warranty claim necessitated by a failing certified part, the Agency does not believe it would be equitable unless the Agency provides a means for the vehicle manufacturer to be reimbursed by the manufacturer of the certified part. Therefore, the Proposal provided that as a condition to certification, part manufacturers would have to agree to reimburse vehicle manufacturers for all emission performance warranty costs resulting from repairs necessitated by defective or nonequivalent certified parts.

Some commenters agreed that vehicle manufacturers must never deny an emission performance warranty claim on the basis of the use of a certified aftermarket part. However, little support was given to the manner in which the Proposal set forth the certified aftermarket part manufacturer's obligation to reimburse a vehicle manufacturer for warranty expenses incurred as a result of a certified part. Some vehicle manufacturers did not believe that the Proposal would provide them with any real legal remedy against parts manufacturers for expenses incurred as a result of certified parts. However, Ford Motor Company suggested that perhaps the notice of intent to certify could be viewed as being a third party beneficiary contract, with the vehicle manufacturer being the beneficiary.

Some commenters from the aftermarket industry believed that the Proposal would have required manufacturers of certified parts to reimburse vehicle manufacturers on demand, without any opportunity to inspect the part or the vehicle to determine whether the certified part was actually the cause of a vehicle's failing an I/M test. Moreover, these commenters believed that a part manufacturer who refuses to reimburse a vehicle manufacturer in any case, however justified, will risk decertification of its parts.

Several commenters suggested that EPA require, as a condition of certification, that a part manufacturer provide a warranty stating that the part, in and of itself, when properly installed in a vehicle engine (in which all other emissions-related parts are properly functioning) will not cause the vehicle or engine to exceed applicable exhaust emission standards for the certified interval or the remainder of the Section 207(b) emission performance warranty period, whichever occurs first. This warranty would allow any party, including vehicle owners and manufacturers, to make a claim for reimbursement. This warranty, however, would be subject to the following conditions: (1) A nonconformity of the vehicle or engine which should be covered under the emission performance warranty must exist; (2) the certifier's obligation would be limited to the cost of repair or replacement of the certified part, and would not include consequential damages; and (3) the warranty would be limited to the emission-related characteristics of the part as determined by the certification procedures applicable at the time of certification.

The idea of having part manufacturers provide warranties under which any parties having incurred valid warranty expenses may recover has considerable appeal. First, it would provide vehicle manufacturers with a legal remedy for reimbursement, namely, breach of warranty. Second, although this point was not specifically commented on by any party, presumably under such an approach vehicle owners would be free to bring their vehicles to repair facilities of their choosing rather than a vehicle manufacturer's designated warranty outlet and still be reimbursed for warranty claims necessitated by certified parts. This could lessen the potential anticompetitive effect of the warranty perceived by certain members of the automotive aftermarket industry. In addition, vehicle owners would likely find this convenient.

The Agency believes that there are some problems with the recommended warranty scheme. For instance, as stated in an earlier letter from APEC, such a warranty could be disproportionately burdensome to small part manufacturers who may be unable to set up a system dealing with individual consumers. In addition, the Agency believes that the second condition is too limiting. It is unreasonable to expect a vehicle manufacturer to bear the cost of the repair of a part, such as a catalytic converter, which failed as a result of a defective certified part and to be reimbursed only for the cost of repairing or replacing the certified part. Rather, it is only reasonable for the part manufacturer to reimburse the vehicle manufacturer for all valid emission performance warranty expenses, including administrative costs, incurred as a result of a certified part.

The Agency has therefore decided that in order to carry out the purposes of Section 207(b) it is necessary to require as a condition to certification that a part manufacturer warrant that its parts, if properly installed, will not cause a vehicle to fail Federal emission standards, as adjudged by an EPA approved emission short test. The minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable costs, including handling and other administrative costs, incurred under the emission performance warranty as a result of the certified part. However, EPA encourages part manufacturers to expand their obligation under this warranty to include reimbursement to other parties such as individual vehicle owners or independent repair facilities.

EPA has received a staff opinion from the Bureau of Consumer Protection of the Federal Trade Commission concurring with the conclusion of EPA that since this warranty is governed by Federal law, it is exempt from the requirements of the Magnuson-Moss Act. Therefore, although the Agency encourages part manufacturers to comply with the Magnuson-Moss Act and the regulations issued thereunder, the Agency does not believe that they are required to do so.

The vehicle manufacturers asserted that some part manufacturers inevitably would go out of business or otherwise not be in a position to live up to their obligations to reimburse vehicle manufacturers for warranty expenses. Some suggested that part manufacturers be required to post bonds covering potential claims by vehicle manufacturers. These commenters asserted that vehicle manufacturers', need to be protected from incurring non-reimbursable warranty expenses resulting from use of parts other than their own.

The Agency believes that these arguments are far too speculative. Therefore, the Agency is not persuaded that it is necessary to require any showing of financial stability or bonding prior to a part manufacturer's being allowed to certify parts. Moreover, no data was brought to the Agency's attention of situations where part manufacturers have sold a great number of parts that have caused extensive damage to cars and then pulled out of the market leaving consumers no recourse for recovery of damages. Although the regulations presently require no showing of an ability to

reimburse vehicle manufacturers when appropriate, the Agency will consider amending the regulations if evidence is presented that suggests significant problems could occur or are occurring.

K. Emission-Critical Parameters

The Agency received comments regarding the individual emission-critical parameters and suggested test procedures for the 18 parts set out in the Proposal. As a result of these comments, the Agency has modified slightly many of the emission-critical parameters and/or their related test procedures. In addition, commenters raised such significant concerns regarding engine valves, camshafts, pistons, electronic inductive ignition system and components and electronic inductive distributors that the Agency has decided not to promulgate final emission-critical parameters for these parts. In particular, the Agency is concerned about whether more stringent durability requirements for these parts are necessary.

Most of the comments concerning the 13 parts for which final emission-critical parameters have been promulgated recommended increased specified durability requirements. Most of the recommendations, however, were unrealistic and far too severe to reflect real world conditions. In addition, many were far more severe than Society of Automotive Engineers (SAE) testing procedures. The Agency believes that requiring burdensome and unrealistic tests would unduly discourage participation in the program. Therefore, except in a few instances, the standards were not changed to include more elaborate durability requirements. The Agency notes, however, that this does not relieve part manufacturers of their responsibility to determine that their parts are, in fact, durable. Rather, the Agency, at least in some instances, is allowing individual part manufacturers to determine that their parts are durable in the manner they deem best. The Agency will, however, act to assure that certified parts are capable of functioning adequately for their useful life. The Agency may decertify and prevent the certification of non-durable parts. Moreover, the certifying part manufacturer is required to warrant its parts as set forth in § 85.2117.

One change adopted by the Agency was in response to comments that the temperatures set out in the Proposal for testing carburetor accelerator pumps, breaker points, capacitors/condensers, distributor caps and/or rotors, inductive system coils, primary resistors, and breaker point distributors were so severe as to be unrepresentative of the expected environments of the parts. The Agency agrees with these comments and, therefore, has modified the temperatures specified.

In addition to this change, the Agency also modified the standards and/or test procedures for particular parts. A more detailed discussion of the comments received for individual part standards and related test procedures are discussed in a separate support document located at VI—2 in Public Docket EN–79–8.

Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action within five years. In particular, the Agency will solicit comments from the affected parties concerning how well the program is serving the purpose of limiting the anticompetitive effects of the emission warranties. In addition, the Agency will be interested in determining the consumer protection implications of the program as well as the effect the program is having on in-use compliance of motor vehicles with emission standards, including any increase or decrease in burdens the program may be putting on motor vehicle manufacturers.

Reporting and Recordkeeping Requirements

These regulations do impose new reporting and recordkeeping requirements on aftermarket part manufacturers that choose to take advantage of the certification program. EPA prepared a Reports Impact Analysis which is included in the Public Docket. As previously stated, the Agency does not believe the reporting requirement is burdensome.

Under EPA's new "sunset" policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from today's date unless EPA takes affirmative steps to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time has been included in the text of the final regulations.

Under Section 307(b)(1) of the Clean Air Act, 42 U.S.C 7607, judicial review of this action is available *only* by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of November 25, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Note.—The Agency has determined that this document is not a "significant regulation" requiring the preparation of a Regulatory Analysis under Executive Order 12044.

Dated: November 13, 1980.

Douglas M. Costle,

Administrator.

Accordingly, Subpart V of Part 85 of Title 40 of the Code of Federal Regulations is amended by adding the sections set forth below.

Subpart V—Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

Sec.

Authority: Secs. 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 7541, 7542(a), 7601(a))

Subpart V—Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

§ 85.2112 Applicability.

The provisions of §§ 85.2112 through 85.2122 apply to all automotive aftermarket parts (a) for which emission-critical parameters have been set forth in § 85.2122, and (b) which are to be installed in or on 1968 and later model year vehicles.

§ 85.2113 Definitions.

As used in this subpart, all terms not defined shall have the meaning given them in the Act:

(a) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 7421 *et seq.* (formerly 42 U.S.C. 1857 *et seq.*) as amended.

(b) "Aftermarket Part" means any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line.

(c) "Aftermarket Part Manufacturer" means

(1) A manufacturer of an aftermarket part or

(2) A party that markets aftermarket parts under its own brand name, or

(3) A rebuilder of original equipment or aftermarket parts, or

(4) A party that licenses others to sell its parts.

(d) "Agency" means the Environmental Protection Agency.

(e) "Deputy Assistant Administrator" means the Deputy Assistant Administrator for Mobile Source, Noise and Radiation Enforcement of the Agency or his or her delegate.

(f) "Certified Aftermarket Part" means any aftermarket part which has been certified pursuant to this subpart.

(g) "Director" means the Director of the Manufacturer's Operations Division of the Office of Enforcement of the Agency or his or her delegate.

(h) "Emission Warranty" means those warranties given by vehicle manufacturers pursuant to section 207 of the Act.

(i) "Emission-Related Standards" or "Emission-Critical Parameters" means those critical parameters and tolerances which, if equivalent from one part to another, will not cause the vehicle to exceed applicable emission standards with such parts installed.

(j) "Engine Family" means the basic classification unit of a vehicle's product line for a single model year used for the purpose of emission-data vehicle or engine selection and as determined in accordance with 40 CFR 86.078–24.

(k) "Vehicle or Engine Configuration" means the specific subclassification unit of an engine family as determined by engine displacement, fuel system, engine code, transmission and inertia weight class as applicable.

§ 85.2114 Basis of Certification.

(a) An automotive aftermarket part manufacturer may certify a part either:

(1) On the basis of demonstrating conformance of that part with all of the relevant Emission-Critical Parameters set forth for that part in § 85.2122; or

(2) On the basis of performing emission tests in each applicable vehicle configuration for which the part is to be certified in accordance with the requirements of this section.

(b) The only emission test on which certification can be made pursuant to paragraph (a)(2) of this section is the Federal Test Procedure as set forth in the applicable portions of 40 CFR Part 86 (except as provided in paragraph (b)(3)).

(1) At least two emission tests are required in order to certify an aftermarket part pursuant to paragraph (a)(2). These tests shall be performed according to the Federal Test Procedure on a vehicle set to the vehicle manufacturer's specifications and in which the part to be certified has been installed.

(2) The test results must demonstrate that the proper installation of the certified aftermarket part will not cause the vehicle to fail to meet any applicable Federal emission requirements under section 202 of the Act.

(3) The following portions of the Federal Test Procedure are not required to be performed when certifying a part in accordance with paragraph (a)(2):

(i) Compliance with evaporative emissions standard if the manufacturer of that part has a reasonable basis for believing that the use of the part has no effect on the vehicle's evaporative emissions,

(ii) Compliance with exhaust emissions standard if the part manufacturer has a reasonable basis for believing that the part affects only the evaporative emissions of a vehicle, and

(iii) Other portions therein which the part manufacturer believes are not relevant provided that the part manufacturer has requested and been granted a waiver in writing by the Director for excluding such portion.

(4) For the purpose of certifying parts on the basis of emission testing for use in vehicle or engine configurations other than those tested under paragraph (a)(2), the certifier may apply the results of tests performed under paragraph (a)(2) upon a showing set out in the notification of intent to certify that the configuration tested represents the "worst case" with respect to emissions of those configurations for which the results are to be applicable.

(i) Such a showing shall include:

(A) A technical discussion that supports the conclusion that the configuration tested represents the worst case, and

(B) All data that support the above conclusion. (ii) The worst case configuration shall be that configuration which is least likely to meet the applicable emission standards among those configurations for which the emission test results under paragraph (a)(2) are to be applied. This determination:

(*1*) Shall be based on a technical judgment of the impact of the particular design or calibration of a particular parameter or combination of parameters and/or an analysis of appropriate data, and

(*2*) Shall only be applicable for configurations that are required to meet the same or less stringent (higher) emission standards than those applicable to the configuration tested.

(c) An aftermarket part may be certified in accordance with § 85.2114(a)(1) only if the part's emission-critical parameters as set forth in § 85.2122(a) are equivalent to those of the original equipment part it is to replace.

(1) A part that replaces more than one part may be certified in accordance with § 85.2114(a)(1) only if the part meets the applicable parameters of § 85.2122 for each part or parts which the part is to replace. If a part is to replace more than one part or an entire system, compliance must be deomonstrated for all emission critical parameters involved, except those which relate solely to the interface between the parts being replaced by the modified part.

(2) Compliance with the Emission-Critical Parameters may be demonstrated by compliance with the relevant Test Procedure and Criteria specified in the Appendix to this Subpart V. An aftermarket part manufacturer may choose to utilize other tests and methods to demonstrate compliance with § 85.2114(a)(1) provided that the tests and methods are of equal validity and reliability to those provided in the Appendix.

(3) An aftermarket part manufacturer may certify a part on the basis of conformance with all Emission-Critical Parameters only after the part manufacturer has performed such tests, analyses, or other procedures necessary to ascertain with a high degree of certainty the emission-critical parameter specifications and tolerances for the original equipment part for which a certified part is to be a replacement.

(i) If information is available to identify the applicable emission-critical parameters, the prospective certifier must use such information.

(ii) If sampling and analysis of original equipment parts is relied upon, the prospective certifier must use sound statistical sampling techniques to ascertain the mean and range of the applicable emission parameters.

(4) Certification in accordance with § 85.2114(a)(1) or (2) must be based upon tests utilizing representative production aftermarket parts selected in a random manner in accordance with accepted statistical procedures.

(d) Before a part may be certified pursuant to this subpart, evidence must exist to demonstrate that the part will not cause a vehicle to exceed emission standards during the full interval for which the part is to be certified.

(1) For parts without a scheduled replacement, this interval shall be the useful life of the motor vehicle or motor vehicle engine.

(2) If a Recommended Durability Procedure is contained in the Appendix to this Subpart V for a part, then that test or another test of equivalent validity and reliability shall be used to demonstrate the durability of the part.

(3) An aftermarket part manufacturer may use reasonable engineering

analyses or testing to demonstrate durability for all parts for which no Recommended Durability Procedure is contained in the Appendix.

(4) If any provision of 40 CFR Part 86 establishes a minimum replacement or service interval for a part during vehicle or engine certification, then no aftermarket part of that type may be certified with a shorter replacement or service interval.

(e) Installation of any certified part shall not result in the removal or rendering inoperative of any original equipment component, require the readjustment of any component to other than the original manufacturer specifications, cause or contribute to an unreasonable risk to the public health, welfare or safety, or result in any additional range of parameter adjustability or accessibility to adjustment than that of the vehicle manufacturer's parts.

§ 85.2115 Notification of Intent To Certify.

(a) At least 45-days prior to the sale of any certified automotive aftermarket part, notification of the intent to certify must be received by the Agency.

(1) The notification shall include:

(i) Identification of each part to be certified.

(ii) Identification of all vehicle or engine configurations for which the part is being certified including make(s), model(s), year(s), engine size(s) and all other specific configuration characteristics necessary to assure that the part will not be installed in any configuration for which it has not been certified.

(iii) A description of the tests and methods utilized to demonstrate compliance with §§ 85.2114(a)(1) and 85.2114(c); *except that*, if the procedure utilized is recommended in the Appendix, then only a statement to this effect is necessary. If certification is sought in accordance with § 85.2114(a)(2), the results of all emission tests performed shall be included. A description of all statistical methods and analyses used to determine the emission-critical parameters of the original equipment parts and compliance of the certified part(s) with those parameters including numbers of parts tested, selection criteria, means, variance, etc.

(iv) A statement that the aftermarket part manufacturer accepts, as a condition of certification, the obligation to provide and comply with the warranty contained in § 85.2117;

(v) A statement of commitment and willingness to comply with all the relevant terms and conditions of this subpart;

(vi) The service intervals of the part, including maintenance and replacement intervals in months and/or miles, as applicable, if different than the original equipment requirements;

(vii) A statement, if applicable, that the part will not meet the labelling requirements of § 85.2119(a) and a description of the markings the aftermarket manufacturer intends to put on the part in order to comply with § 85.2119(b);

(viii) The information required pursuant to § 85.2114(b)(4) if applicable; and

(ix) The office or officer of the part manufacturer authorized to receive correspondence regarding certification requirements pursuant to this subpart.

(2) The notification shall be signed by an individual attesting to the accuracy and completeness of the information supplied in the notification.

(3) Notification to the Agency shall be by certified mail or another method by which date of receipt can be established.

(4) The notification shall be submitted to: Director, Manufacturer's Operations Division (EN–340), 401 "M" Street SW., Washington, D.C. 20460.

(b) A part may be sold as certified 45 days after the receipt by the Agency of the notification given pursuant to this subsection provided that the Agency has not notified the part manufacturer otherwise.

§ 85.2116 Objections to Certification.

(a) At any time prior to the end of the 45-day period after a notification of intent to certify an aftermarket part is received as specified in § 85.2115, the Director may notify the manufacturer of the aftermarket part that such aftermarket part may not be certified pending further investigation. The basis upon which this notification shall be made may include, but not be limited to, information or test results which indicate:

(1) Compliance with the applicable emission-critical parameters was not achieved or that the testing methods used to demonstrate compliance with the emission-critical parameters were inadequate;

(2) The part is to be certified on the basis of emission testing, and the procedure used in such tests was not in compliance with those portions of the Federal Test Procedure not waived pursuant to § 85.2114(b);

(3) Use of the certified part may cause a vehicle to exceed any applicable emission requirements;

(4) The durability requirement of § 85.2114(c) has not been complied with;

(5) Use of the certified part could cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

(6) Installation of the certified part requires procedures or equipment which would likely cause it to be improperly installed under normal conditions or would likely result in a vehicle being misadjusted; or

(7) Information and/or data required to be in the Notification of intent to certify § 85.2115 have not been provided.

(b) The aftermarket part manufacturer must respond in writing to the statements made in the notification by the Director, or the aftermarket part manufacturer shall withdraw its notification of intent to certify.

(1) Any party interested in the outcome of a decision as to whether a part may be certified may provide the Director with any relevant written information up to ten days after the manufacturer responds to the Director's objection.

(2) Any interested party may request additional time to respond to the information submitted by the part manufacturer. The Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(3) The part manufacturer may reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the Director within 10 days of the date information from interested parties is submitted to the Director.

(4) The Director may, at his or her discretion, allow oral presentations by the aftermarket manufacturer or any interested party in connection with a contested part certification.

(c) If an objection has been sent to an aftermarket part manufacturer pursuant to paragraph (a) of this section, the Director shall, after reviewing all pertinent data and information, render a decision and inform the aftermarket part manufacturer in writing as to whether such part may be certified and, if so, under what conditions the part may be certified. The written decision shall include an explanation of the reasons therefor.

(1) The decision by the Director shall be provided to the manufacturer within 30 working days of receipt of all necessary information by the manufacturer or interested parties, or of the date of any oral presentation regarding the certification, whichever occurs second.

(2) A copy of the decision shall be sent to all identified interested parties.

(3) Within 20 days of receipt of a decision made pursuant to this

subsection, any party may file a written appeal to the Deputy Assistant Administrator. The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written submissions, prior to rendering a final decision. The schedule for such submission shall be in accordance with the schedule specified in § 85.2116(b).

(4) If no party files an appeal with the Deputy Assistant Administrator within 20 days, then the decision of the Director shall be final.

(5) The Deputy Assistant Administrator shall make a final decision regarding the certification of a part within 30 working days of receipt of all necessary information by the part manufacturer or from the date of any oral presentation, whichever occurs later.

(6) A copy of all final decisions made under this section shall be published in the **Federal Register.**

§ 85.2117 Warranty.

(a) As a condition of certification, the aftermarket part manufacturer shall warrant that if the certified part is properly installed it will not cause a vehicle to exceed Federal emission requirements as adjudged by an emission short test approved by EPA under section 207(b)(1) of the Act.

(b) The aftermarket part manufacturer's minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable expenses incurred as a result of honoring a valid emission performance warranty claim which arose because of the use of the certified aftermarket part.

(c) Nothing in this section precludes a part manufacturer from expanding its warranty to include reimbursement to any additional parties it desires.

§ 85.2118 Changes after certification.

The aftermarket part manufacturer shall be required to recertify any part which:

(a) Was certified pursuant to § 85.2114(a)(1) and to which modifications are subsequently made which could affect the results of any test or judgment made that the part meets all of the applicable Emission-Critical Parameters;

(b) Was certified pursuant to § 85.2114(a)(2) and to which modifications are made which are likely to affect emissions or the capability of the part to meet any other requirement of this subpart; or

(c) Was certified and is subsequently modified in a manner affecting the durability of the part or any emission control device, engine or the vehicle upon which such part is installed.

§ 85.2119 Labelling requirements.

(a) Except for those components specified in paragraph (b) of this section, each part certified pursuant to these regulations shall have "Certified to EPA Standards" and the name of the aftermarket part manufacturer or other party designated to determine the validity of warranty claims placed on the part.

(b) In lieu of the information contained in paragraph (a) of this section, the part may contain identification markings that can be used to refer to the information required in paragraph (a) of this section. A description of the marking and notification that such marking is intended in lieu of the information required above, must be made to the Agency in the Notification of Intent to Certify.

(c) The package in which the certified aftermarket part is contained must have the following information conspicuously placed thereon:

(1) The statement "Certified by (name of manufacturer or warranter) to EPA Emission Standards",

(2) A list of the vehicles or engines (in accordance with § 85.2115(a)(1)(ii)) for which the part has been certified,

(3) A statement of the maintenance or replacement interval for which the part has been certified, if the interval is of a shorter duration than the interval specified in the written instructions for proper maintenance and use for the original equipment,

(4) A description of the maintenance necessary to be performed on the part in the proper maintenance and use of the part, if such maintenance is in addition to or different from that maintenance necessary on the original equipment part, and

(5) The instructions for proper installation if different from the vehicle manufacturer's recommended installation instruction for that part.

(d) The information required by paragraphs (c)(4) and (5) of this section may be provided on a written insert with the certified aftermarket part if the insert also contains the information required in paragraphs (c)(1), (2) and (3) of this section.

(e) The information required by paragraph (c)(2) of this section may be provided in a catalog rather than on the package or on an insert: *Provided,* That access to the catalog is readily available to purchasers and installers of the part.

(f) When an aftermarket part manufacturer desires to certify existing in-service stocks of its products, it may do so provided:

(1) The part does not differ in any operational or durability characteristic from the aftermarket parts specified in the notification made pursuant to § 85.2115, and

(2) A supplemental information sheet is made available to all parties selling the part.

(i) The supplemental sheet shall be made available in sufficient quantities so that it can be provided with all parts sold as certified, and

(ii) The supplemental sheet shall contain all of the information specified in paragraph (c) of this section.

§ 85.2120 Maintenance and Submittal of Records.

(a) For each certified aftermarket part, the aftermarket part manufacturer must establish, maintain and retain for 5 years the following adequately organized and indexed records:

(1) Detailed production drawings showing all dimensions, tolerances, performance requirements and material specifications and any other information necessary to completely describe the part;

(2) A description of the testing program, including all production part sampling techniques used to verify compliance of the certified aftermarket part with the applicable Emission-Critical Parameters and durability requirements;

(3) All data obtained during testing of the part and subsequent analyses based on that data, including the milege and the vehicle or engine configuration determinants if emission testing is utilized as the basis for certification;

(4) All information used in determining those vehicles for which the part is represented as being equivalent from an emissions standpoint to the original equipment part;

(5) A description of the quality control plan used to monitor production and assure compliance of the part with the applicable certification requirements;

(6) All data taken in implementing the quality control plan, and any subsequent analyses of that data;

(7) A description of all the methodology, analysis, testing and/or sampling techniques used to ascertain the emission critical parameter specifications of the originial equipment part; and

(8) All in-service data, analyses performed by the manufacturer and correspondence with vendors, distributors, consumers, retail outlets or vehicle manufacturers regarding any design, production or in-service

problems associated with 25 or more of any certified part.

(b) The records required to be maintained in paragraph (a) of this section shall be made available to the Agency upon the written request of the Director.

(c) For parts certified only for vehicles with less than 5 years of emission performance warranty coverage remaining, records must be kept for 3 years or until they determine that approximately 80% of the applicable vehicles are outside the warranty period, whichever occurs second.

(d) This section shall expire 5 years from the effective date of this regulation unless renewed prior to that date.

§ 85.2121 Decertification.

(a) The Director may notify an aftermarket part manufacturer that the Agency has made a preliminary determination that one or more parts should be decertified.

(1) Such a preliminary determination may be made if there is reason to believe that the part manufactured has failed to comply with §§ 85.2112 through 85.2122. Information upon which such a determination will be made includes but is not limited to the following.

(i) Tests required to be performed to demonstrate compliance of the part with the applicable Emission-Critical Parameters

(A) Were not performed on the part(s), or

(B) Were insufficient to demonstrate compliance;

(ii) The part was certified on the basis of emission tests, and

(A) The procedures used in such tests were not in substantial compliance with a portion or portions of the Federal Test Procedure which were not waived pursuant to § 85.2114(b)(4); or

(B) The emission results were not in compliance with the requirements of § 85.2114(b);

(iii) Use of the certified part is causing vehicle emissions to exceed emission requirements for any regulated pollutant;

(iv) Use of the certified part causes or contributes to an unreasonable risk to public health, welfare or safety or severely degrades drivability operation or function;

(v) The part has been modified in a manner requiring recertification pursuant to § 85.2118; or

(vi) The manufacturer of such part has not established, maintained or retained the records required pursuant to § 85.2120.

(2) Notice of a preliminary determination to decertify shall contain:

(i) A description of the noncomplying part(s);

(ii) The basis for the Director's preliminary decision; and

(iii) The date by which the manufacturer must

(A) Terminate the sale of the part as a certified part, or

(B) Make the necessary change (if so recommended by the Agency), and

(C) Request an opportunity in writing to dispute the allegations of the preliminary decertification.

(b) If the aftermarket part manufacturer requests an opportunity to respond to the preliminary determination, the manufacturer and other parties interested in the Director's decision whether to decertify a part may, within 15 days of the date of the request, submit written presentations, including the relevant information and data, to the Director. The Director, in his or her discretion, may provide an opportunity for oral presentations.

(1) Any interested party may request additional time to respond to the information submitted by the part manufacturer. The Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(2) The part manufacturer may have an extension of up to 30 days to reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the Director within 10 days of the date information from interested parties is submitted to the Director.

(c) If a part manufacturer has disputed the allegations of the preliminary decisions, the Director shall, after reviewing any additional information, notify the aftermarket part manufacturer of his or her decision whether the part may continue to be sold as certified. This notification shall include an explanation upon which the decision was made and the effective date for decertification, where appropriate.

(d) Within 20 days from the date of a decision made pursuant to paragraph (c) of this section, any adversely affected party may appeal the decision to the Deputy Assistant Administrator.

(1) A petition for appeal to the Deputy Assistant Administrator must state all of the reasons why the decision of the Director should be reversed.

(2) The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written testimony.

(3) If no appeal is filed with the Deputy Assistant Administrator within the permitted time period, the decision of the Director shall be final.

(e) If a final decision is made to decertify a part under paragraph (d) of this section, the manufacturer of such part shall notify his immediate customers (other than retail customers) that, as of the date of the final determination, the part in question has been decertified. The part manufacturer shall offer to replace decertified parts in the customer's inventory with certified replacement parts or, if unable to do so, shall at the customer's request repurchase such inventory at a reasonable price.

(f) Notwithstanding the requirements of paragraph (e) of this section, a part purchased by a vehicle owner as certified, shall be considered certified pursuant to this subpart.

§ 85.2122 Emission-Critical Parameters.

(a) The following parts may be certified in accordance with § 85.2114(a)(1):

(1) *Carburetor Vacuum Break (Choke Pull-Off).* (i) The emission-critical parameters for carburetor vacuum breaks are:

(A) Diaphragm Displacement

(B) Timed Delay

(C) Modulated Stem Displacement

(D) Modulated Stem Displacement Force

(E) Vacuum Leakage

(ii) For the purposes of this paragraph:

(A) "Diaphragm Displacement" means the distance through which the center of the diaphragm moves when activated. In the case of a non-modulated stem, diaphragm displacement corresponds to stem displacement.

(B) "Timed Delay" means a delayed diaphragm displacement controlled to occur within a given time period.

(C) "Modulated Stem Displacement" means the distance through which the modulated stem may move when actuated independent of diaphragm displacement.

(D) "Modulated Stem Displacement Force" means the amount of force required at start and finish of a modulated stem displacement.

(E) "Vacuum Leakage" means leakage into the vacuum cavity of a vacuum break.

(F) "Vacuum Break" ("Choke Pull-off") means a vacuum-operated device to open the carburetor choke plate a predetermined amount on cold start.

(G) "Modulated Stem" means a stem attached to the vacuum break diaphragm in such a manner as to allow stem displacement independent of diaphragm displacement.

(H) "Vacuum Purge System" means a vacuum system with a controlled air flow to purge the vacuum system of undesirable manifold vapors.

(2) *Carburetor Choke Thermostats.* (i) The emission-critical parameters for all Choke Thermostats are:

(A) Thermal Deflection Rate

(B) Mechanical Torque Rate

(C) Index Mark Position

(ii) The emission-critical parameters for Electrically-Heated Choke Themostats are:

(A) Those parameters set forth in subparagraph (2)(i) of this paragraph

(B) Time to rotate coil tang when electrically energized

(C) Electrical circuit resistance

(D) Electrical switching temperature

(iii) For the purpose of this paragraph:

(A) "Choke" means a device to restrict air flow into a carburetor in order to enrich the air/fuel mixture delivered to the engine by the carburetor during cold-engine start and cold-engine operation.

(B) "Thermostat" means a temperature-actuated device.

(C) "Electrically-heated Choke" means a device which contains a means for applying heat to the thermostatic coil by electrical current.

(D) "Thermostatic Coil" means a spiral-wound coil of thermally-sensitive material which provides rotary force (torque) and/or displacement as a function of applied temperature.

(E) "Thermostatic Switch" means an element of thermally-sensitive material which acts to open or close an electrical circuit as a function of temperature.

(F) "Mechanical Torque Rate" means a term applied to a thermostatic coil, defined as the torque accumulation per angular degree of deflection of a thermostatic coil.

(G) "Thermal Deflection Rate" means the angular degrees of rotation per degree of temperature change of the thermostatic coil.

(H) "Index or Index Mark" means a mark on a choke thermostat housing, located in a fixed relationship to the thermostatic coil tang position to aid in assembly and service adjustment of the choke.

(I) "PTC Type Choke Heaters" means a positive termperature coefficient resistant ceramic disc capable of providing heat to the thermostatic coil when electrically energized.

(3) *Carburetor Accelerator Pumps.* (i) The emission-critical parameter for accelerator pumps (plungers or diaphragms) is the average volume of fuel delivered per stroke by the pump within prescribed time limits.

(ii) For the purpose of this paragraph an "Accelerator Pump (Plunger or Diaphragm)" means a device used to provide a supplemental supply of fuel during increasing throttle opening as required.

(4) *Positive Crankcase Ventilation (PCV) Valves.* (i) The emission-critical parameter for a PCV valve is the volume of flow as a function of pressure differential across the valve.

(ii) For the purposes of this paragraph a "PCV Valve" means a device to control the flow of blow-by gasses and fresh air from the crankcase to the fuel induction system of the engine.

(5) *Breaker Points.* (i) The emission-critical parameters for breaker points are:

(A) Bounce

(B) Dwell Angle

(C) Contact Resistance

(ii) For the purposes of this paragraph:

(A) "Breaker Point" means a mechanical switch operated by the distributor cam to establish and interrupt the primary ignition coil current.

(B) "Bounce" means unscheduled point contact opening(s) after initial closure and before scheduled reopening.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are conducting current.

(D) "Contact Resistance" means the opposition to the flow of current between the mounting bracket and the insulated terminal.

(6) *Capacitors/Condensers.* (i) The emission-critical parameters for capacitors/condensers are:

(A) Capacitance

(B) Series Resistance

(C) Breakdown Voltage

(ii) For the purposes of this paragraph:

(A) "Capacitance" means the property of a device which permits storage of electrically-separated charges when differences in electrical potential exist between the conductors and measured as the ratio of stored charge to the difference in electrical potential between conductors.

(B) "Series Resistance" means the sum of resistances from the condenser plates to the condenser's external connections.

(C) "Breakdown Voltage" means the voltage level at which the capacitor fails.

(D) "Capacitor/Condenser" means a device for the storage of electrical energy consisting of two oppositely charged conducting plates separated by a dielectric and which resists the flow of direct current.

(7) *Distributor Caps and/or Rotors.* (i) The emission-critical parameters for distributor caps and/or rotors are:

(A) Physical and Thermal Integrity

(B) Dielectric Strength

(C) Flashover

(ii) For the purposes of this paragraph:

(A) "Flashover" means the discharge of ignition voltage across the surface of the distributor cap and/or rotor rather than at the spark plug gap.

(B) "Dielectric Strength" means the ability of the material of the cap and/or rotor to resist the flow of electric current.

(C) "Physical and Thermal Integrity" means the ability of the material of the cap and/or rotor to resist physical and thermal breakdown.

(8) *Spark Plugs.* (i) The emission critical parameters for spark plugs are:

(A) Heat Rating

(B) Gap Spacing

(C) Gap Location

(D) Flashover

(E) Dielectric Strength

(ii) For the purposes of this paragraph:

(A) "Spark Plug" means a device to suitably deliver high tension electrical ignition voltage to the spark gap in the engine combustion chamber.

(B) "Heat Rating" means that measurement of engine indicated mean effective pressure (IMEP) value obtained on the engine at a point when the supercharge pressure is 25.4mm (one inch) Hg below the preignition point of the spark plug, as rated according to SAE J549A Recommended Practice.

(C) "Gap Spacing" means the distance between the center electrode and the ground electrode where the high voltage ignition arc is discharged.

(D) "Gap Location" means the position of the electrode gap in the combustion chamber.

(E) "Dielectric Strength" means the ability of the spark plug's ceramic insulator material to resist electrical breakdown.

(F) "Flashover" means the discharge of ignition voltage at any point other than at the spark plug gap.

(9) *Inductive System Coils.* (i) The emission-critical parameters for inductive system coils are:

(A) Open Circuit Voltage Output

(B) Dielectric Strength

(C) Flashover

(D) Rise Time

(ii) For the purposes of this paragraph:

(A) "Coil" means a device used to provide high voltage in an inductive ignition system.

(B) "Flashover" means the discharge of ignition voltage across the coil.

(C) "Dielectric Strength" means the ability of the material of the coil to resist electrical breakdown.

(D) "Rise Time" means the time required for the spark voltage to increase from 10% to 90% of its maximum value.

(10) *Primary Resistors.* (i) The emission-critical parameter for primary resistors is the DC resistance.

(ii) For the purpose of this paragraph, a "Primary Resistor" means a device used in the primary circuit of an inductive ignition system to limit the flow of current.

(11) *Breaker Point Distributors.* (i) The emission-critical parameters for breaker point distributors are:

(A) Spark Timimg

(*1*) Centrifugal Advance Characteristics

(*2*) Vacuum Advance Characteristics

(B) Dwell Angle

(C) Breaker point contact operation

(D) Electrical resistance to ground

(E) Capacity for compatibility with generally available original equipment and certified replacement parts listed in § 85.2112(a) (5), (6), (7), and (9).

(ii) For the purposes of this paragraph:

(A) "Distributor" means a device for directing the secondary current from the induction coil to the spark plugs at the proper intervals and in the proper firing order.

(B) "Distributor Firing Angle" means the angular relationship of breaker point opening from one opening to the next in the firing sequence.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are capable of conducting current.

(12) Engine Valves [Reserved]

(13) Camshafts [Reserved]

(14) Pistons [Reserved]

(15) *Oxidizing Catalytic Converter*

(i) The emission-critical parameters for oxidizing catalytic converters are:

(A) Conversion Efficiency

(B) Light-off Time

(C) Mechanical and Thermal Integrity

(ii) For the purposes of this paragraph including the relevant test procedures in the Appendix:

(A) "Catalytic Converter" means a device installed in the exhaust system of an internal combustion engine that utilizes catalytic action to oxidize hydrocarbon (HC) and carbon monoxide (CO) emissions to carbon dioxide (CO_2) and water (H_2O).

(B) "Conversion Efficiency" means the measure of the catalytic converter's ability to oxidize HC/CO to CO_2/H_2O under fully warmed-up conditions stated as a percentage calculated by the following formula:

$$\frac{\text{Inlet conc.} - \text{outlet conc.}}{\text{Inlet conc.}} \times 100$$

(C) "Light-off Time" or "LOT" means the time required for a catalytic converter (at ambient temperature 68–86°F) to warm-up sufficiently to convert 50% of the incoming HC and CO to CO_2 and H_2O.

(D) "Peak Air Flow" means the maximum engine intake mass air flow rate measure during the 195 second to 202 second time interval of the Federal Test Procedure.

(E) "Feed Gas" means the chemical composition of the exhaust gas measured at the converter inlet.

(F) "Aged Catalytic Converter" means a converter that has been installed on a vehicle or engine stand and operated thru a cycle specifically designed to chemically age, including exposure to representative lead concentrations, and mechanically stress the catalytic converter in a manner representative of in-use vehicle or engine conditions.

(G) "Mechanical and Thermal Intergrity" means the ability of a converter to continue to operate at its previously determined efficiency and light-off time and be free from exhaust leaks when subject to thermal and mechanical stresses representative of the intended application.

(16) *Air Cleaner Filter Element.* (i) The emission-critical parameters for Air Cleaner Filter Elements are:

(A). Pressure drop

(B). Efficiency

(ii) For the purpose of this paragraph:

(A) "Air Cleaner Filter Element" means a device to remove particulates from the primary air that enters the air induction system of the engine.

(B) "Pressure Drop" means a measure, in kilopascals, of the difference in static pressure measured immediately upstream and downstream of the air filter element.

(C) "Efficiency" means the ability of the air cleaner or the unit under test to remove contaminant.

(17) *Electronic Inductive Ignition System and Components* [Reserved]

(18) *Electronic Inductive Distributors* [Reserved]

(b) Additional part standards. [Reserved]

A. Carburetor Vacuum Break (Choke Pull-Off)

1. *Test Procedure and Criteria*

a. Vacuum leakage: Apply 457 ± 13mm (18.0 ± 0.5 inches) Hg. vacuum to the vacuum unit to achieve full diaphragm displacement. Seal vacuum source to unit. There shall be no visible loss of diaphragm displacement or drop in vacuum gauge reading after a 15 second observation. Vacuum purge system and diaphragm displacement adjusting screw holes should be temporarily sealed during this test when applicable.

b. Diaphragm displacement: At stabilized temperature of − 29°C and 121°C (− 20°F and 250°F) with 457 ± 13mm (18.0 ± 0.5 inches) Hg. vacuum applied to unit, the diaphragm displacement shall be within ± 1mm (0.04 inches) of the nominal original equipment displacement. The vacuum purge system must be open during this test when applicable. Adjusting screws that limit displacement should be temporarily removed and adjusting screw holes temporarily sealed during this test.

c. Timed delay (when applicable): With 457 ± 13mm (18.0 ± 0.5 inches) Hg. applied to the unit, the vacuum break diaphragm displacement shall occur within ± 20% of the original equipment time over the specified range of displacement. The diaphragm displacement shall be timed over the same distance for the original equipment as the replacement part and shall not be less than 60% of the total displacement range. The vacuum purge system must be open and the adjusting screw holes should be temporarily sealed during this test when applicable.

d. Modulated stem displacement (when applicable): With a force sufficient to extend the modulated stem to its full displacement, the displacement shall be within ± 0.8mm (± 0.03 inches) of the original equipment specification.

e. Modulated stem displacement force (when applicable): The force required to start and finish the modulated stem displacement shall be within ± 35% of the original equipment specification for forces up to 142 grams (5 ounces) and shall be within ± 20% of the original equipment specification for forces exceeding 142 grams (5 ounces).

2. *Durability Procedures:* After 250,000 full displacement cycles (from atmospheric pressure to a minimum of 530mm (21 inches) Hg. vacuum at a temperature of 79°C (175°F)) in air, the following conditions shall be met:

a. Diaphragm displacement shall not degrade more than 10% from the original test measurements of paragraph 1.b. above.

b. Timed delay shall not degrade more than 10% from the original test measurement in paragraph 1.c. above.

c. Following these tests, the units must be free of visible defects.

B. Carburetor Choke Thermostats

1. *Test Procedures and Criteria*

a. All chokes

i. *Thermal deflection rate*

When tested on a suitable fixture, the deflection rate shall be within ±6% of

the original equipment value. The initial temperature and final temperature for purposes of this test may vary but shall exhibit a test temperature range of at least 44°C (80°F). Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B389 (latest revision) or American National Standards Institute Z155–20.

ii. *Mechanical torque rate*

When tested on a suitable fixture, the torque rate shall be within ±12% of the mean original equipment value. Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B362 (latest revision) or American National Standards Institute Z155–18 (latest revision).

iii. *Index mark position*

When stabilized for four hours at room temperature, the relative position of the thermostatic coil outer tang or loop and the index mark, when corrected to 24°C (75°F), shall be within ±5 angular degrees of the mean original equipment positions.

b. Electrically-heated Chokes

i. *Time to rotate coil tang*

When tested on a suitable fixture, the time to rotate through a prescribed angle at a prescribed temperature and prescribed voltage, for the specfic choke device under test shall be within ±12 seconds or ±25% of the mean original equipment value whichever is greater.

ii. *Electrical circuit resistance*

In an electrically-heated choke utilizing PTC type choke heater, the circuit resistance shall be within ±1.5 ohms of the mean original equipment value at 24±3°C (75°±5°F) unenergized.

iii. *Electrical switching temperature*

In an electrically heated choke thermostat utilizing a thermostatic disc switch in the electrical circuit, the temperature to open the circuit shall be within ±5.5°C (10°F) and the temperature to close the circuit shall be within ±11°C (20°F) of the mean original equipment value. Circuit opening temperature shall be measured on a decreasing temperature change, and the circuit closing temperature shall be measured on an increasing temperature change.

C. Carburetor Accelerator Pumps

1. *Test Procedure and Criteria*

a. Expose plunger or diaphragm assembly to temperatures of −30°C (−20°F) for 70 hours and at 70°C (158°F) for 24 hours, with a commercial grade fuel or equivalent.

b. Within one hour after temperature exposure of 1.a. above, each plunger or diaphragm assembly, when installed in an applicable carburetor or test fixture, shall at room temperature deliver a volume of test fluid (Stoddard solvent or equivalent) from a 10 stroke cycle,* within ±30% of the volume from a 10 stroke cycle of an original equipment plunger or diaphragm assembly.

2. *Durability Procedure:* After 250,000 operational cycles, at approximately 30 cycles per minute at room temperature in test fluid, the output of the plunger/diaphragm shall not drop below 90% of the low limit as established in 1.b.

D. Positive Crankcase Ventilation (PCV) Valve

1. *Test Procedure and Criteria*

a. Measure the flow of the PCV valve in standard cubic feet per minute (SCFM) vs. pressure differential across the valve over a range of operating pressures from 4–22 inches Hg., at standard atmospheric conditions (21.1° C (70° F) at 755mm (29.92 inches).

b. A PCV valve shall flow within the vehicle manufacturer's specifications or shall meet the following criteria: Whenever the mean of the original equipment flow curve is below 1 SCFM, a maximum deviation of the mean replacement PCV valve shall not exceed ± 0.1 SCFM. Whenever the mean original equipment curve is equal to or greater than 1 SCFM, a maximum deviation of the mean of the replacement PCV valve shall not exceed ± 10%. The total flow tolerance of the replacement valve shall not exceed the original equipment variation from the mean, at any pressure differential.

2. *Durability Procedure:* The flow of any specific PCV valve must not deviate from the flow curve of the original equipment PCV valve by more than the total original allowable tolerance when each is similarly operated in the intended vehicle application over the service interval stated by the certifier.

E. Breaker Points

1. *Test Procedures and Criteria*

a. Set up test system circuit and equipment per Figure 1 with an OE breaker point assembly. Connect the primary to a 14 ± .5 V DC regulated power supply.

b. Record dwell angle and open-circuit output voltage at 300 and 500 distributor rpm and at 500 rpm intervals up to the maximum speed of the intended application.

c. Insert the replacement part in the test system and repeat the observations per b above under identical test conditions.

d. The data observed with the replacement part in the system must meet the following criteria:

(1) The dwell angle change: Not to exceed that of the original equipment by more than ± 2° at all measured rpm intervals.

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10 stroke cycle: 10 strokes from closed throttle plate position to wide open throttle plate position occurring within a 15–25 second time period.

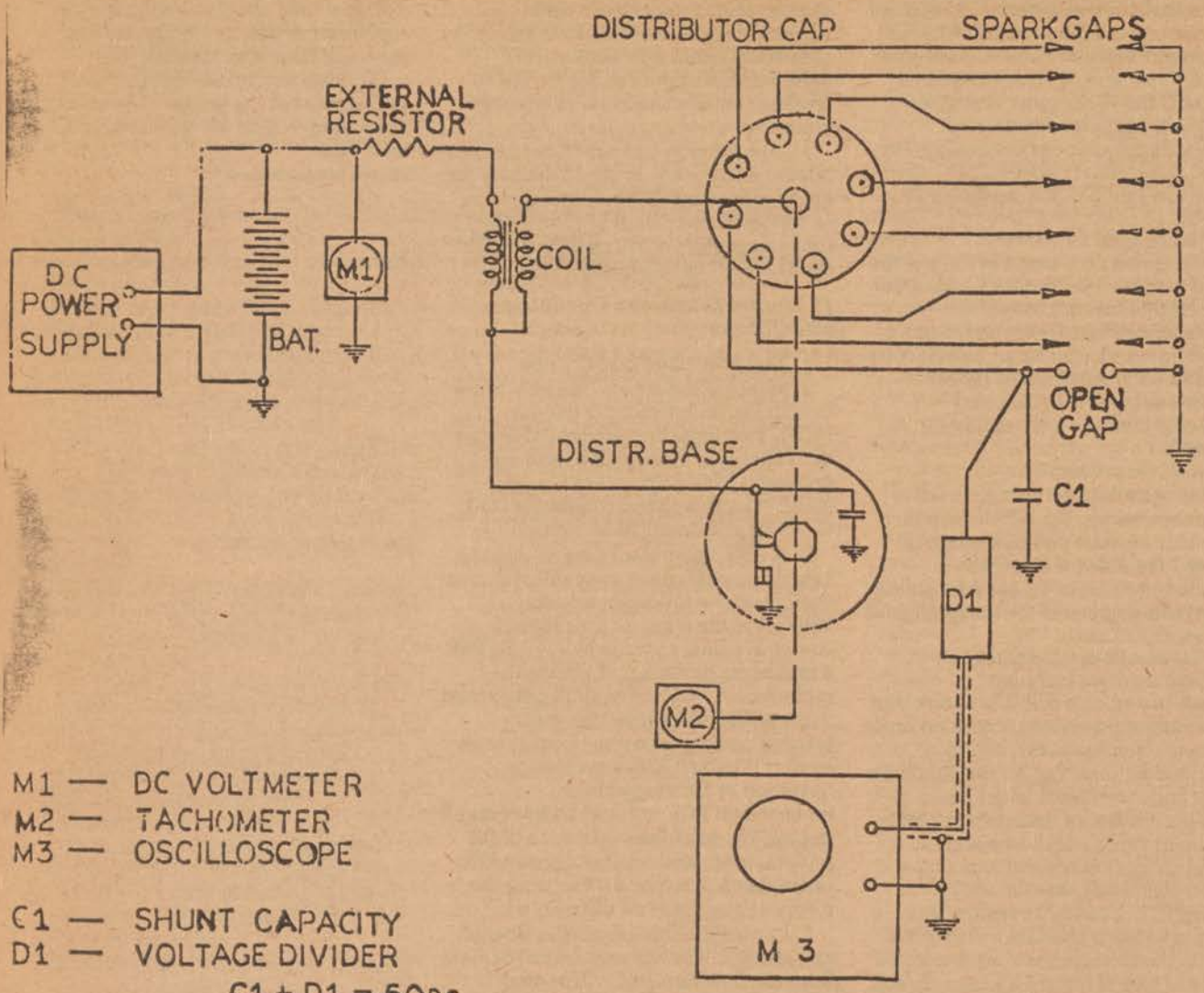

FIGURE I

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(2) The open circuit output voltage (M–3): Not less than 90% of the OE breaker point assembly at any measured rpm.

e. Repeat step c above at −40°C (−40°F) and 100°C (212°F).

f. The breaker points shall operate without evidence of point bounce at all test speeds and temperatures and shall operate easily without binding when operated manually.

2. *Durability Procedures*

a. Set up a bench ignition system using an applicable distributor or electro-mechanical equivalent.

b. Install the breaker point assembly under test in the distributor, lubricate and adjust per applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, capacitor, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V DC for a 12V system.

d. The secondary portion of the test system is to be connected to a 12±2KV spark gap.

e. An external heat source shall generate an ambient temperature of 70° (158°F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12KV gap.

g. The replacement breaker point assembly must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12KV spark gap.

h. After the 200 hours repeat step 1.c. above. The open circuit output voltage must be at least 90% of that measured in 1.c.

F. Capacitors/Condensers

1. *Test Procedures and Criteria*

a. The electrostatic capacitance of the replacement condenser shall be within ±20% of the value of the original part at 20±3°C (68±5°F). The capacitance is to be measured on a capacitance bridge having an accuracy of ±1% at 1 KHz frequency.

b. Set up the test system in accordance with Figure 1. The condenser series resistance shall be such that the output voltage at 500 distributor rpm with the replacement condenser shall not be less than 90% of the output voltage (M–3) with the original equipment condenser.

c. The capacitor must be able to withstand a minimum test voltage of 500V DC for a minimum of 0.1 seconds without failure.

d. (1) Measure capacitance after 4 hours minimum soak at 70° (158°F).

(2) After one hour at room temperature, place capacitor at −18°C (0°F) for 4 hours minimum and measure capacitance.

(3) Place capacitor at room temperature for 4 hours minimum and measure capacitance.

e. After thermal cycling, repeat 1.a. and b. The results must be within ±10 percent of the intital measurements.

2. *Durability Procedure*

a. Set up a bench ignition system using an applicable distributor or an electro-mechanical equivalent.

b. Install the capacitor under test in the distributor adjusted to applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, breaker points, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5V DC for 12V system.

d. The secondary portion of the test system is to be connected to a 12±2KV spark gap.

e. An external heat source shall generate an ambient temperature of 70°C (158°F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12KV gap.

g. The replacement part must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12KV spark gap.

h. After the 200 hours, the condenser shall be within 10 percent of the capacitance and voltage measured in 1.a. and b. respectively.

G. Distributor Caps and/or Rotors

1. *Test Procedures and Criteria*

a. Set up test system in accordance with the circuit and equipment per Figure 1 with OE distributor cap and/or rotor. Connect the primary to a 14±.5V DC regulated power supply.

b. Record open circuit output voltage (M–3) at 300 and 500 distributor rpm and at intervals of 500 distributor rpm up to the maximum speed of the intended application.

c. Insert the intended replacement part(s) in the system and repeat step b. above under identical test conditions.

d. Subject the intended replacement part to the following thermal sequence through five complete cycles:

1. 12 hours at −40°C (−40°F)
2. 2 hours at room temperature
3. 4 hours at 100°C (212°F)
4. 2 hours at room temperature.

e. Repeat step b. above with the replacement part(s).

f. The output voltages measured with the replacement part(s) in the system must be at least 90% of the output voltage with the OE cap and/or rotor.

2. *Durability Procedures*

a. Set up test system in accordance with circuit and equipment per Figure 1.

b. Install the cap and/or rotor under test in distributor, lubricate and adjust per applicable vehicle manufacturer's specifications. Use equivalent coil, primary resistor, breaker points and capacitor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V D.C.

1. In breaker point operated systems, connect secondary to a 12 KV±2 KV gap.

2. In electronic ignition systems, connect secondary to a gap equivalent to at least 50% of peak open-circuit voltage.

d. An external heat source shall generate an ambient temperature of 70° (158° F) for the distributor.

e. Distributor shall be driven at 1750±50 rpm for 200 hours. After each 50 hours interval, run the distributor for 5 minutes with one open-circuit spark gap instead of a 12KV gap.

f. The replacement part(s) must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark at the spark gap.

g. Repeat step 1.c. above. The open circuit output voltage must be at least 90% of that measured in step 1.c.

h. The replacement cap and/or rotor must be free of any visual cracks, arcing or melting.

H. Spark Plugs

1. *Test Procedures and Criteria*

a. Heat rating: When comparatively rated in the SAE 17.6 Spark Plug Rating engine according to the SAE J549A Recommended Practice, the comparative average rating of at least five (5) replacement spark plugs shall be within 15 percent of the average IMEP of at least five (5) OE spark plugs.

b. Gap spacing: The electrode spark gap shall be equivalent or adjustable to the recommended gap for the original equipment spark plug.

c. Gap location: The electrode gap position in the chamber shall be the same as specified by the vehicle manufacturer.

d. Flashover: The spark plug terminal end, with the properly fitted connecting boot, shall not flash-over at peak anticipated voltage for the intended application when electrode gap is 15% larger than vehicle manufacturer's gap specifications.

I. Inductive System Coils

1. *Test Procedures and Criteria*

a. Set up the circuit in accordance with Figure 1. Operate the circuit by an applicable distributor or equivalent triggering device and applicable primarly resistor with a 50 pf load at 14.0±0.50 volts DC input as applicable and stabilized at an ambient temperature of 20°C±3°C (68°F±5°F).

b. With the original equipment coil installed, record the predominant minimum peak voltage and rise time at 300 and 500 distributor rpm, and at 500 rpm intervals up to the maximum intended operating speed. The measurement is to be taken after 4 minutes operation at each speed.

c. Install the replacement coil to be tested and repeat step b. above.

d. The replacement coil shall have an open-circuit output voltage (M–3) at least 90% of the OE coil output voltage and a rise time not to exceed 110% of original equipment coil at each distributor test speed.

2. *Durability Procedure*

a. Install the replacement ignition coil in the ignition system using the applicable rotor, cap, capacitor, breaker points, and primary resistor.

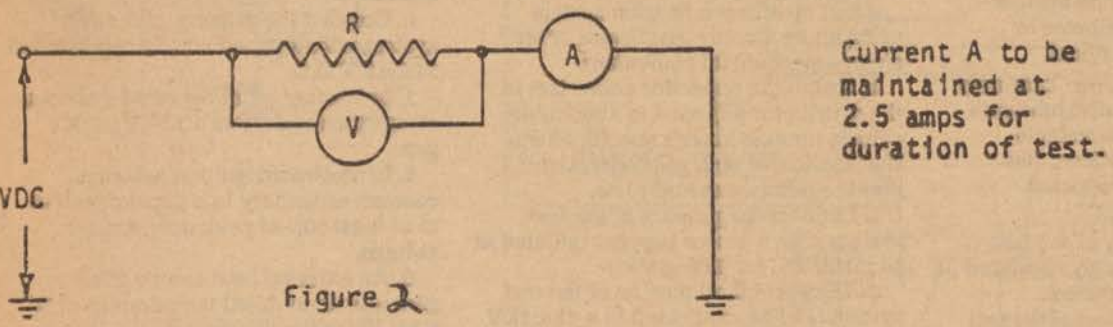

Figure 2

b. Operate the circuit with a regulated power supply of 14.0 ± .5 volts DC connected to the primary at an ambient temperature of 70°C (158°F) at 1750 ± 50 distributor rpm for a duration of 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open-circuit spark gap instead of a 12KV gap.

c. The ignition coil shall perform throughout the test without any evidence of coil failure which would result in the loss of the spark in the 12 KV spark gap.

d. Repeat Step 1.c. above. The open-circuit output voltage must be at least 90% of that measured in 1.c.

J. Primary Resistors

1. *Test Procedures and Criteria.*

a. Configure the circuit shown in Figure 2, using the original equipment resistor.

b. At 20 ± 3°C (68 ± 5°F), apply voltage for 15 minutes; maintain current at 2.5 amps. At conclusion of 15 minutes, read voltage and current. Calculate resistance using the relationship

$R=E/I.$

where:
R=Resistance in ohms,
E=Voltage (V) in volts,
I=Current (A) in amps.

c. Replace OE test sample with part to be certified and repeat step b. above.

d. Resistance of the part shall be within ± 20% of original equipment resistance.

2. *Durability Procedure.*

a. Using the circuit shown in Figure 1, apply current at 70°C (150°F), for 200 hours.

b. After 200 hours retest as in step 1.c. above, and verify that resistance is within ± 20% of the value as measured in step 1.b. above.

K. Distributors—Breaker Point

1. *Test Procedures and Criteria.*

a. Using an appropriate test installation, operate the distributor through its intended speed range.

b. The advance mechanism shall function within the tolerance of the vehicle manufacturer's original specification over the speed range of the intended application as to vacuum and centrifugal advance.

c. The advance mechanism shall repeatedly return to the zero setting ± 0.5 distributor degrees after advancing and retarding through the operating range.

d. The distributor firing angle accuracy shall remain within the originally specified tolerances throughout the speed range of the intended application.

e. The distributor shall be capable of maintaining the dwell angle of the original equipment specification with ±2 degrees throughout the speed range of the intended application.

f. The distributor shall be capable of open-circuit output voltage (M–3) equal to at leat 90 percent of the voltage produced by the original equipment system over the speed range of the intended application.

2. *Durability Procedure.*

a. At an ambient temperature of 70° C (150° F), operate the distributor at 1750 ± 50 rpm for 200 hours.

b. The distributor must meet the requirements of paragraph 1.b. through f. after the 200 hours.

L. Reserve for Engine Valves

M. Reserved for Camshafts

N. Reserved for Pistons

O. Oxidizing Catalytic Converters

1. *Test Procedures and Criteria.*

(a) The fresh and aged conversion efficiencies of the replacement oxidizing catalytic converter shall be equal to or exceed those of the original equipment converter for CO and HC emissions. The fresh and aged Light-off Time (LOT) of the replacement converter shall be equal to or less than those of the original equipment converter for CO and HC emissions. These parameters shall be determined for both fresh and aged converters under the same conditions using the following steady state feed gas concentrations and conditions for LOT and Conversion Efficiency respectively:

	LOT	Conversion efficiency
Exhaust mass flow rate.	See note (2)	See note (1).
Total hydrocarbons.	See note (3)	See note (3).
Carbon monoxide	1.0 to 2.5%	1.0 to 2.5%.
Hydrogen	0.33×% CO maximum.	0.33×% CO maximum.
Oxygen	1.5×% CO minimum.	1.5×% CO minimum.
Converter inlet gas temperature.	650°F to 850°F	650°F to 850°F.

Note 1.—Not less than peak air flow of the vehicle or engine configuration being certified for. If more than one vehicle or engine application is to be covered by a generic converter, the greatest peak vehicle or engine air flow shall be used.

Note 2.—Between 0.10 and 0.40 times the value determined in Note 1.

Note 3.—500–2000 parts per million by volume minimum based on Methane calibration. If a non-engine simulator gas source is used, a mixture ratio of 10% propane to 90% propylene by volume will constitute an acceptable synthetic for total exhaust hydrocarbons.

(i) LOT tests shall be conducted by exposing the converter to a step change in temperature, from ambient to that specified above: 650°–850°F. Converter inlet and outlet exhaust emissions as measured. Light-off Time is then determined by recording the time required for the converter to reduce the outlet emissions (HC and CO) to 50% of the inlet emissions, on a volumetric concentration basis, measured from the step temperature change.

(ii) Conversion efficiency measurements shall be obtained by passing stabilized-feed gas through the converter (at conditions specified above) and making simultaneous measurements of inlet and outlet emission volume concentrations. The conversion efficiency for CO and HC is then calculated.

(iii) The particular conditions for which LOT and conversion efficiency are measured (i.e., exhaust mass flow rate, total hydrocarbons, carbon monoxide, hydrogen, oxygen, and converter inlet temperature) for the replacement converter and original equipment converter tests must not vary from one another by more than 10%.

(b) Fresh and aged catalytic converters may be obtained by operating the converter on individual vehicle or engine application for which it is intended on the Federal Test Procedure road durability driving cycle. A fresh converter results when the converter has operated between 2000 and 5000 miles or equivalent hours. An aged converter results when the converter has been operated for the warranted life of the original equipment converter.

(c) Where one generic converter is intended to cover multiple vehicle or engine configurations, converter aging may be obtained per Paragraph (b) above, on a vehicle or engine which represents the greatest peak air flow of the group of vehicle configurations to be covered, and whose calibration and feed gas concentrations are representative of the vehicle or engine configurations being certified for.

2. *Other Considerations.*

(a) Replacement converter must fit within the width and length space envelope of the original equipment converter. Converter spacing from the underbody and for ground clearance must be the same or greater than the original equipment converter application.

(b) Pressure drop measured between inlet and outlet pipe interconnecting points on the replacement converter shall be within ±25% of similar measurements for the original equipment converter being replaced, when measured at each of three flow conditions 50 SCFM, 100 SCFM, and 150 SCFM with a suitable fluid medium such as air. Maximum allowable exhaust gas leakage from the replacement coverter shall be 0.4 cubic feet per minute measured at 4.0 pounds per square inch differential. All measurements must be normalized to equal density conditions.

(c) Converter skin temperature shall be measured during the converter efficiency test. The skin temperature for the replacement converter must equal or be less than that for the original equipment converter.

P. Air Cleaner Filter Element

1. *Test Procedures and Criteria.*

(a) Using test equipment and procedures specified in SAE–J726c, perform:

(i) Air Flow and Pressure Drop Test (2.3) at 200 SCFM, record test conditions and pressure drop.

(ii) Efficiency Test (2.4) to measure full life efficiency at 200 SCFM to a total pressure drop of 9 inches of water, record test conditions and test duration from first to last addition of standard dust, weigh test element and absolute filter at end of test using three randomly selected original equipment air filter elements.

(b) Perform tests as in (a) above, under conditions controlled to within ±10% of the corresponding original equipment test conditions, for three randomly selected replacement air filter elements.

(c) The replacement air filter element average recorded test results. The pressure drop in (i) and absolute filter weight in (ii) must be equal to or less than those average results for the original equipment test results. The replacement air filter averaged test results for element weight in (ii) must be equal to or larger than averaged result for the original equipment averaged test results.

2. *Durability Procedure.*

(a) After use in the intended vehicle or engine application for the recommended service interval, the replacement element shall evidence an increase in pressure drop (as measured in 1 (a)(i) above) equal to or less than that of the original equipment air filter element tested in the identical manner.

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BILLING CODE 6560-33-M

federal register

Tuesday
November 25, 1980

Part V

Architectural and Transportation Barriers Compliance Board

Compliance With Standards for Access to and Use of Buildings by Handicapped Persons; Final Rules

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: Final rules.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is revising its regulation relating to Compliance with Standards for Access to and Use of Buildings by Handicapped, 36 CFR Part 1150. The changes adopted are designed to conform the regulation to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602 (hereinafter referred to as the 1978 Act) and reflect technical and clarifying improvements based on experiences with the regulation since its adoption in December, 1976, as well as to make the regulation more readily understandable.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Charles D. Goldman, General Counsel, (202) 245–1801 (Voice or TDD).

SUPPLEMENTARY INFORMATION:

Background

The Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) was established under section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391. Section 502(d) (29 U.S.C. 792(d)) provides that the A&TBCB shall 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.* The provisions of Subchapter II of Chapter 5 and Chapter 7 of Title 5, United States Code apply to the A&TBCB procedures. An order of compliance issued by A&TBCB is a final order of compliance for purposes of judicial review. Pub. L. 93–516, 88 Stat. 1621, the Rehabilitation Act Amendments of 1974, provides that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with the applicable standards.

The 1978 Act provides that an order of compliance issued by an administrative law judge shall be deemed an order of the Board and shall be a final order for the purpose of judicial review. The 1978 Act also provides that any complainant or participant may obtain review of a final order. The 1978 Act vests in the Executive Director on behalf of the A&TBCB the final authority with respect to the investigation of alleged noncompliance in the issuance of formal complaints. The 1978 Act also authorizes the A&TBCB to direct the Executive Director to bring court actions to enforce compliance orders.

The A&TBCB in 1976 adopted procedures to enable it to implement its enforcement responsibility with respect to buildings subject to section 502. 41 FR 55441 (1976). This regulation has been in effect for almost four years. A review of the regulation was precipitated by enactment of the 1978 Act. On April 30, 1980, revisions were proposed to various sections of the regulation. 45 FR 28969–28977. Comments were invited until June 30, 1980.

A total of eight written comments were received containing suggestions.

Summary of Changes

In the revised regulation the terms "complaint" and "building or facility" have been defined to more clearly show the applicability of the regulation to all instances of alleged violation coming to the attention of the Executive Director concerning structures. Circumstances, including but not limited to a formal complaint, showing the Executive Director an alleged violation are all that is necessary to set in motion the resolution process. The period of informal resolution has been extended from 60 to 90 days in keeping with the actual practice of the Board and responding parties. Within 10 days after the end of the 90 day period the Executive Director is to issue a formal citation of alleged noncompliance or determination not to proceed to litigation, though he/she may act before the expiration of the 90 day informal resolution period if circumstances merit or after the expiration of the 10 day period. Provision has also been added for the complaint to be deemed closed if action is not taken by the Executive Director in response to a request by the complainant or affected agencies or persons for a litigation decision. In general, the Board's overall goal of resolving complaints within 180 days has been met. That goal should not be affected by the revisions.

"Compliance" is showing no violation exists, correcting the alleged violation, agreeing to correct it, or timely implementing a compliance plan approved by the Executive Director. Under the revised regulation the administrative law judge is given an additional 10 days, making a total of 30 days to render his decision which is reviewable in Federal court, and not by the A&TBCB. Provisions relating to the A&TBCB functioning as an appellate tribunal in compliance cases have been deleted to implement the 1978 Act. A new provision relates to the authorization of court enforcement of A&TBCB compliance orders. The provisions relating to expedited relief have been consolidated.

To enhance the readability of the regulation other revisions have been made. Words which are not commonly used, except perhaps by lawyers, were, for the most part, eliminated from the text. Reorganization of sections or paragraphs was undertaken to ease access to these rules of procedures. For purposes of clarity, other nonsubstantive editorial changes were made.

Discussion of Major Comments

1. *Definitions*

Concern was expressed over the definition of certain terms, particularly "alteration," "building," "construction," and "facility."

Subsequent to the April 30, 1980, publication of the proposed revised 36 CFR Part 1150, many of these terms were subject to review by the A&TBCB in connection with consideration of the proposed minimum guidelines and requirements for accessibility standard 45 FR 55009 et seq. Those guidelines will be the basis of revised accessibility standards under the Architectural Barriers Act, which are also to be enforced under these provisions. This provision applies to all covered buildings subject to standards, including those of the U.S. Postal Service—current and revised—under the Architectural Barriers Act. The definitions in these procedures should be consistent with the definitions in the minimum guidelines.

Accordingly, the terms "building or facility," "construction," and "alteration" have been revised to be consistent with the proposed minimum guidelines. *See* 36 CFR 1150.4. This is reflective of the most current A&TBCB thinking on these terms. It is also responsive to the comments on the proposed compliance procedures which came from members of the A&TBCB or their agencies. The phrase "or leased" is not included in revised 36 CFR 1150.2(d). It is included in the comparable provision of the proposed minimum guidelines. See proposed 36 CFR 1190.2(d). This does not affect any change in the substantive coverage of the Architectural Barriers Act. These terms may be subject to further revision

in this regulation after A&TBCB adoption of its minimum guidelines.

It must be noted that buildings required to be "accessible to the public," 36 CFR 1150.3 and 1150.4, encompasses buildings which are open to the general public on a permanent or limited basis, such as to perform a specific function, e.g., attend a lecture, as well as for employment or residential purposes. It is not limited to the so called "public" areas, e.g., entrances. Nor is it limited to "public" buildings, e.g., government offices, libraries. In general, if a building is open to the able-bodied public and otherwise subject to standards under the Architectural Barriers Act, it must be accessible to, and usable by, disabled persons.

The definition of the term "agency", has been revised to be more consistent with the Public Buildings Act of 1959. *See* 40 U.S.C. 612(3), 41 CFR Ch. 101 Parts 17 and 19.

It must also be noted in response to one State transportation agency commentor that the term "building or facility" does not extend to vehicles as equipment. *See Michigan Paralyzed Veterans of America* v. *Coleman*, 451 F. Supp 7 (E.D. Mich 1977).

2. *Parties*

There were several comments on this subject.

Concern was expressed that a user or tenant government agency would have to needlessly and expensively extend itself even though it may have no real control over the elimination of the accessibility barrier. *See* 36 CFR 1150.41 and 1150.42.

It is the A&TBCB practice to serve a copy of the complaint on all interested agencies, including tenant agencies. In previous proceedings the A&TBCB has encountered instances where the actions of the tenant agency have contributed to the presence and elimination of the barrier. *See* In re Compliance, Social Security Administration (A&TBCB Decision of Administrative Law Judge, February 1, 1979); In re Compliance Hubert H. Humphrey Building, (A&TBCB Decision of Administrative Law Judge, December 10, 1979).

The A&TBCB shares the commentors desire to have innocent persons avoid unnecessary expense. The A&TBCB experience has been to join the user agency as a party to formal proceedings when that agency may have been responsible for the erection or perpetuation of a barrier or has authority to bring a facility or building into compliance. Relatively few user agencies served with the compliant have been ultimately served with a citation. Thus, the current practice is actually responsive to the comment.

Another comment was that the complainant should be sent a copy of a settlement agreement approved by the judge. Such an agreement, it is the A&TBCB experience, has been a part of the final order of the judge. Accordingly, it is already within § 1150.12(e), and no revision has been made to that paragraph. It is noted that the complainant is not required to participate in the proceedings.

3. *Initiation of Proceedings*

The current practice of having the Executive Director being the official who is responsible for the intitiation of formal administrative proceedings has been continued. 36 CFR 1150.42. One commentor felt that it should be the A&TBCB which authorizes the issuance of a citation. Whether or not the 1978 amendments pertinent to the Executive Director's authority to initiate complaints would preclude the commentor's proposed practice, it must be recognized that case processing is a day-to-day operation of the A&TBCB staff. The Executive Director has ongoing, statutory supervisory responsibility for the staff and its activities. For the Executive Director to have to obtain the approval of the A&TBCB before commencing administrative proceedings is not practicable. The members of the A&TBCB exercise general supervisory control of the A&TBCB Executive Director and staff. Members meet periodically to focus on high level policy issues and to provide broad direction. Also, the A&TBCB experience has been that the potential of the Executive Director initiating proceedings has facilitated achievement of accessibility.

4. *Closing of Cases*

In response to the public comment on the need for bringing greater certainty to the complaint process, provision has been added in 36 CFR 1150.41(i) whereby the complainant or agencies or persons receiving a copy of the compliant may, after expiration of the period of informal resolution, request the Executive Director to issue a citation or determination not to proceed. Failure of the Executive Director to timely respond shall be deemed a closure of the case.

This prevents a compliant from languishing indefinitely. Also, it will not overburden the A&TBCB staff with unnecessary paperwork in instances where the matter is still under active investigation and all concerned are so knowledgeable.

5. *Reports*

There was public comment that in § 1150.41(c) definite periods should be established for timely filing of reports. Another comment was that in § 1150.41, paragraphs (c) and (d) were unauthorized and inconsistent with the spirit on informal resolution. No authority for this comment was given.

It must be noted that A&TBCB practice is that all requests for reports provide a time when the information requested must be received. This varies depending on the nature of the problem and status of its resolution.

Paragraphs (c) and (d) are reasonably related to the statutory function of ensuing compliance with the accessibility standards. 29 U.S.C 792(b). The provisions are similar to other regulations currently in effect under which no major difficulties have been encountered. Inclusion of these particular provisions will enable the A&TBCB to most readily implement memoranda of understanding being developed with the Department of Health and Human Services and the Department of Education to coordinate implementation of sections 502 and 504 of the Rehabilitation Act. *See* 45 CFR 80.6, 34 CFR 100.6.

6. *Affidavits*

There were some general comments on the use and restrictions on affidavits in 36 CFR 1150.80. The A&TBCB proposed to follow the practice utilized for several years by the Department of Health and Human Services, formerly the Department of Health, Education, and Welfare, which practice has not encountered major difficulties. *See* 45 CFR 81.75. The A&TBCB will utilize the provision it proposed, recognizing its provision gives latitude to the administrative law judge. In previous A&TBCB proceedings there have been no problems encountered utilizing affidavits.

7. *Attorneys Fees*

The A&TBCB received one extensive comment from a disabled persons' advocacy group strongly urging the provisions of attorneys fees pursuant to 29 U.S.C. 792 and 794a(b) for interested persons or groups who participate in compliance proceedings.

The A&TBCB is not adopting this suggestion at this time so that it can fully study this matter. The A&TBCB will be reviewing the statutes and will publish a proposed rule on this subject if it decides to further consider adopting such a provision.

The A&TBCB currently pays witness fees under 36 CFR 1150.73, a provision which has not been burdensome, as one commentor suggested could happen.

This statement in this preamble should not be interpreted as endorsing a position in favor of or against provision for attorney fees if such fees are authorized in A&TBCB administrative proceedings.

Therefore, Title 36, CFR Part 1150, is hereby revised as follows.

PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Subpart A—General Information

Subpart B—Parties, Complainants, Participants

Subpart C—Form, Execution, Service and Filing of Documents for Proceedings on Citations

Subpart D—Time

Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

Subpart F—Responsibilities and Duties of Judge

Subpart G—Prehearing Conference and Discovery

Subpart H—Hearing Procedures

Subpart I—The Record

Subpart J—Posthearing Procedures; Decisions

Subpart K—Miscellaneous Provisions

Authority: Sec. 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended, 87 Stat. 391 (29 U.S.C. 792).

Subpart A—General Information

§ 1150.1 Purpose.

Purpose. The purpose of the regulations in this part is to implement section 502(b)(1) of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, *as amended by* the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, section 118, 92 Stat. 2979, by establishing rules of procedure for public hearings which ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the U.S. Postal Service).

§ 1150.2 Applicability: Buildings and facilities subject to guidelines and standards.

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

"Constructed or altered on behalf of the United States" means acquired by the United States through lease-purchase arrangement, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

"Primarily for use by able-bodied military personnel" means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

"Privately owned residential structure" means a single or multi-family dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) *Buildings and facilities covered.* Except as provided in paragraph (c) of this section, the standards issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the United States Postal Service) apply to any building or facility—

(1) The intended use for which either—

(i) Will require that such building or facility be accessible to the public, or

(ii) May result in employment or residence therein of physically handicapped persons; and

(2) Which is—

(i) To be constructed or altered by or on behalf of the United States;

(ii) To be leased in whole or in part by the United States—

(A) After August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States; or

(B) On or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date;

(iii) To be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(iv) To be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) *Buildings and facilities not covered.* The standards do not apply to—

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by military personnel.

(d) Any covered building or facility, as provided in this section, which is designed, constructed, or altered after the effective date of a standard issued which is applicable to the building or facility, shall be designed, constructed, altered, or leased in accordance with the standard. For purposes of this section, any design, construction, alteration or lease for which bids or offers are received before the effective date of an applicable standard, in response to an invitation for bids or request for proposals, is not subject to that standard.

§ 1150.3 Policy of amicable resolution.

The policy of the Architectural and Transportation Barriers Compliance Board is to maximize the accessibility and usability of buildings, and facilities through amicable means. To this end,

the Architectural and Transportation Barriers Compliance Board encourages voluntary and informal resolution of all complaints.

§ 1150.4 Definitions.

"A&TBCB" means the Architectural and Transportation Barriers Compliance Board.

"Agency" means Federal department, agency or instrumentality as defined in sections 551(1) and 701(b)(1) of Title 5, United States Code, or an agency official authorized to represent the agency. It includes any executive department or independent establishment in the Executive Branch of the government, including wholly owned government corporations, and any establishment in the legislative or judicial branch of the government, except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction.

"Alteration" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems.

"Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90–480 , as amended, 42 U.S.C. 4151 *et seq.*

"Building or facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

"Chairperson" means the Chairperson of the A&TBCB.

"Complaint" means any written notice of an alleged violation, whether from an individual or organization, or other written information reasonably indicating to the Executive Director a violation of the standard.

"Construction" means any section of a new building or an addition to an existing building.

"Day" means calendar day.

"Executive Director" means the A&TBCB Executive Director.

"Extraordinary Repair" means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

"Judge" means an Administrative Law Judge appointed by the A&TBCB and assigned to the case in accordance with either section 3105 or 3314 of Title 5, Unted States Code.

"PER" means Provisional Expedited Relief.

"Respondent" means a party answering the citation, including PER Citation.

"Section 502 of the Rehabilitation Act" means section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, as amended.

"Standard" means any standard for accessibility and usability prescribed under the Architectural Barriers Act.

§ 1150.5 Scope and interpretation of rules.

(a) These rules shall govern all compliance proceedings held before a judge and all alleged violations coming to the Executive Director as a complaint.

(b) In the absence of a specific provision in these rules, procedure shall be in accordance with the Administrative Procedure Act, Subchapter II of Chapter 5 and Chapter 7, of Title 5, United States Code, and the Federal Rules of Civil Procedure, in that order.

(c) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of the Architectural Barriers Act and section 502 of the Rehabilitation Act.

(d) The rules shall be applied to secure fairness in administration and elimination of unjustifiable expense and delay and to ascertain the truth.

(e) Words importing the singular number may extend and be applied to a plural and vice versa.

§ 1150.6 Suspension of rules.

Upon notice to all parties, the judge, with respect to matters pending before him/her, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the end of justice will be served.

Subpart B—Parties, Complainants, Participants

§ 1150.11 Parties.

(a) The term parties includes (1) any agency, state or local body, or other person named as a respondent in a notice of hearing or opportunity for hearing, (2) the Executive Director and (3) any person named as a party by order of the judge.

(b) The Executive Director has the sole authority to initiate proceedings by issuing a citation under § 1150.42, on the basis of (1) a complaint from any person or (2) alleged violations coming to his/her attention through any means.

§ 1150.12 Complainants.

(a) Any person may submit a complaint to the A&TBCB alleging that a building or facility does not comply with applicable standards issued under the Architectural Barriers Act. Complaints must be in writing and should be sent to:

Executive Director, Architectural and Transportation Barriers Compliance Board, Washington, D.C. 20202.

Complaints may, but need not, contain (i) the complainant's name and where he/she may be reached, (ii) the facility or building and, if known, the funding agency and (iii) a brief description of the barriers. A complaint form is available at the above address.

(b) The A&TBCB shall hold in confidence the identity of all persons submitting complaints unless the person submits a written authorization otherwise.

(c) The A&TBCB shall give or mail, by certified mail, return receipt requested, to the complainant a copy of these regulations.

(d) A complainant is not a party to the proceedings as a matter of course, but may petition the judge to participate under § 1150.13.

(e) The A&TBCB shall send the complainant a copy of the final order issued by the judge. The complainant has standing to obtain judicial review of that order.

§ 1150.13 Participation on petition.

(a) By petitioning the judge, any person may be permitted to participate in the proceedings when he/she claims an interest in the proceedings and may contribute materially to their proper disposition. A complainant shall be permitted to participate in the proceeding when he/she petitions the judge.

(b) The judge may, in his/her discretion, determine the extent of participation of petitioners, including as an intervening party or participant. The judge may, in his/her discretion, limit participation to submitting documents and briefs, or permit the introduction of evidence and questioning of witnesses.

§ 1150.14 Appearance.

(a) A party may appear in person or by counsel or other representative and participate fully in any proceedings. An agency, state or local body, corporation or other association, may appear by any of its officers or by any employee it authorizes to appear on its behalf.

(b) A representative of a party or participant shall be deemed to control all matters respecting the interest of such party or participant in the proceedings.

(c) This section shall not be construed to require any representative to be an attorney-at-law.

(d) Withdrawal of appearance of any representative is effective when a

written notice of withdrawal is filed and served on all parties and participants.

Subpart C—Form, Execution, Service and Filing of Documents for Proceedings on Citations

§ 1150.21 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket number and title of the proceeding and shall show the title, if any, and address of the signatory. Copies need not be signed; however, the name of the person signing the original, but not necessarily his/her signature, shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide.

§ 1150.22 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certification that he/she has read the document, that to the best of his/her knowledge, information, and belief there is a good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed.

§ 1150.23 Filing and service.

(a) *General.* All notices, written motions, requests, petitions, memoranda, pleadings, briefs, decisions, and correspondence to the judge, from a party or a participant or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties and participants.

(b) *Filing.* Parties shall submit for filing the original and two copies of documents, exhibits, and transcripts of testimony. Filings shall be made in person or by mail, with the hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (Federal legal holidays excepted) from 9 a.m. to 5:30 p.m. Standard or Daylight Savings Time, whichever is effective in the city where the office of the judge is located at the time.

(c) *Service.* Service of one copy shall be made on each party and participant by personal delivery or by certified mail, return receipt requested, properly addressed with postage prepaid. When a party or participant has appeared by attorney or other representative, service upon the attorney or representative is deemed service upon the party or participant.

§ 1150.24 [Reserved]

§ 1150.25 Date of service.

The date of service shall be the day when the matter is deposited in United States mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or the date that its attempted delivery is refused.

§ 1150.26 Certificate of Service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his/her attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart D—Time

§ 1150.31 Computation.

In computing any period of time under these rules or in any order issued under them, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which event it includes the next following business day. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

§ 1150.32 Extension of time or postponement.

(a) Requests for extension of time shall be addressed to the judge and served on all parties and participants. Requests should set forth the reasons for the application.

(b) If made promptly, answers to requests for extension of time are permitted.

(c) The judge may grant the extension upon a showing of good cause by the applicant.

Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

§ 1150.41 Informal resolution

(a) The A&TBCB immediately shall serve copies of complaints on all interested agencies and persons. In addition, the A&TBCB shall apprise any person who might become a party to compliance proceedings of the alleged instances of noncompliance and afford him/her a reasonable opportunity to respond or submit pertinent documents.

(b) The Executive Director or his/her designee shall seek the cooperation of persons and agencies in obtaining compliance and shall provide assistance and guidance to help them comply voluntarily.

(c) Upon request of the Executive Director, interested agencies or persons, including, but not limited to, occupant agencies recipients of assistance, and lessors, shall submit to the Executive Director or his/her designee timely, complete, and accurate reports concerning the particular complaint. Reports shall be completed at such times, and in such form containing all information as the Executive Director or his/her designee may prescribe.

(d) The Executive Director, or his/her designee, shall have access during normal business hours to books, records, accounts and other sources of information and facilities as may be pertinent to ascertain compliance. Considerations of privacy or confidentiality asserted by an agency or person may not bar the Executive Director from evaluating such materials or seeking to enforce compliance. The Executive Director may seek a protective order authorizing the use of allegedly confidential materials on terms and conditions specified by the judge.

(e) Complaints should be resolved informally and expeditiously, by the interested persons or agencies. If compliance with the applicable standards is not achieved informally or an impasse concerning the allegations of compliance or noncompliance is reached, the Executive Director will review the matter, including previous attempts by agencies to resolve the complaint, and take actions including, but not limited to, surveying and investigating buildings, monitoring compliance programs of agencies, furnishing technical assistance, such as standard interpretation, to agencies, and obtaining assurances, certifications, and plans of action as may be necessary to ensure compliance.

(f) All actions to informally resolve complaints under paragraphs (a) through (e) of this section shall be completed within ninety (90) days after receipt of the complaint by all affected agencies and persons. A complaint shall be deemed informally resolved if the person or agencies responsible for the alleged violation either (1) demonstrates to the Executive Director that no violation has occurred or (2) corrects the violation or (3) agrees in writing to implement specific compliance action within a definite time agreed to by the Executive Director or (4) are timely implementing a plan for compliance agreed to by the Executive Director. No later than ten (10) days after the termination of the ninety (90) day period

the Executive Director shall either (i) issue a citation under § 1150.42 or (ii) determine in writing that a citation will not be issued at that time and the reasons that it is considered unnecessary.

(g) A determination not to issue a citation shall be served in accordance with § 1150.23 on all interested agencies and persons upon whom a citation would have been served if it had been issued. Except as otherwise provided in paragraph (i) of this section, the failure of the Executive Director to take action within the ten (10) day period after termination of the ninety (90) day informal resolution period shall not preclude the Executive Director from taking action thereafter.

(h) Nothing in paragraphs (a)–(g) of this section shall be construed as precluding the Executive Director before the termination of the ninety (90) day informal resolution period from (1) issuing a citation if it is reasonably clear that informal resolution cannot be achieved within that time, or (2) determining not to issue a citation if it is reasonably clear that compliance can be achieved or that issuance of a citation is not otherwise warranted.

(i) At any time after the expiration of one hundred (100) days after receipt of the complaint by all affected agencies and persons, any person or agency receiving a copy of the complaint, or the complainant, may serve a written request on the Executive Director to issue a citation or determination not to proceed within thirty (30) days. If the Executive Director fails to serve a written response within thirty (30) days of receipt of such a request, the complaint shall be deemed closed.

§ 1150.42 Citations.

(a) If there appears to be a failure or threatened failure to comply with a relevant standard, and the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41, the Executive Director on behalf of the A&TBCB may issue a written citation, requesting the ordering of relief necessary to ensure compliance with the standards or guidelines and requirements. The relief may include the suspension or withholding of funds and/or specific corrective action.

(b) The citation shall be served upon all interested parties, as appropriate, including but not limited to the complainant, the agency having custody, control, or use of the building or facility, and the agency funding by contract, grant, or loan, the allegedly noncomplying building or facility.

(c) The citation shall contain (1) a concise jurisdictional statement reciting the provisions of section 502 of the Rehabilitation Act and Architectural Barriers Act under which the requested action may be taken, (2) a short and plain basis for requesting the imposition of the sanctions, (3) a statement either that within fifteen (15) days a hearing date will be set or that the agency or affected parties may request a hearing within fifteen (15) days from service of the citation, and (4) a list of all pertinent documents necessary for the judge to make a decision on the alleged noncompliance, including but not limited to, contracts, invitations for bids, specifications, contract or grant drawings, and correspondence.

(d) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.

§ 1150.43 Answers.

(a) Answers shall be filed by respondents within fifteen (15) days after receipt of a citation.

(b) The answer shall admit or deny specifically and in detail, matters set forth in each allegation of the citation. If the respondent is without knowledge, the answer shall so state and such statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Failure to file a timely answer shall constitute an admission of all facts recited in the citation.

(c) Answers shall contain a list of additional pertinent documents not listed in the citation when respondent reasonably believes these documents are necessary for the judge to make a decision. Copies of the listed documents shall be filed with the answer.

(d) Answers may also contain a request for a hearing under § 1150.45.

§ 1150.44 Amendments.

(a) The Executive Director may amend the citation as a matter of course before an answer is filed. A respondent may amend its answer once as a matter of course, but not later than five (5) days after the filing of the original answer. Other amendments of the citation or the answer shall be made only by leave of judge.

(b) An amended citation shall be answered within five (5) days of its service, or within the time for filing an answer to the original citation, whichever is longer.

§ 1150.45 Request for hearing.

When a citation does not state that a hearing will be scheduled, the respondent, either in a separate paragraph of the answer, or in a separate document, may request a hearing. Failure of a respondent to request a hearing within fifteen (15) days from service of the citation shall be deemed a waiver of the right to a hearing and shall constitute consent to the making of a decision on the basis of available information.

§ 1150.46 Motions.

(a) Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged.

(b) If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally or the judge may require that they be reduced to writing and filed and served on all parties.

(c) Except as otherwise ordered by judge, responses to a written motion or petition shall be filed within ten (10) days after the motion or petition is served. An immediate oral response may be made to an oral motion. All oral arguments on motions will be at the discretion of the judge.

(d) A reply to a response may be filed within within five (5) days after the response is served. The reply shall address only the contents of the response.

§ 1150.47 Disposition of motions and petitions.

The judge may not sustain or grant a written motion or petition prior to expiration of the time for filing responses, but may overrule or deny such motion or petition without awaiting response, *Providing however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. All motions and petitions may be ruled upon immediately after reply. Motions and petitions not disposed of in separate rulings or in decisions will be deemed denied.

§ 1150.48 PER: Citation, answer, amendment.

(a) Unless otherwise specified, other relevant sections shall apply to PER proceedings.

(b) In addition to all other forms of relief requested, the citation shall request PER when it appears to the Executive Director that immediate and irreparable harm from noncompliance with the standard is occurring or is about to occur. Citations requesting PER shall recite specific facts and include the affidavit or the notarized complaint upon which the PER request is based. Citations requesting PER shall recite that a hearing regarding PER has been scheduled to take place eight (8) days after receipt of the citation. Citations

requesting PER may be filed without prejudice to proceedings in which PER is not requested and without prejudice to further proceedings if PER is denied. The time and place of hearing fixed in the citation shall be reasonable and shall be subject to change for cause.

(c) Answers to citations requesting PER shall be in the form of all answers, as set forth in § 1150.43, and must be filed within four (4) days after receipt of the citation. Answers shall recite in detail, by affidavit or by notarized answer, why the PER requested should not be granted.

(d) When a citation contains both a request for relief to ensure compliance with a standard and a request for PER, an answer to the PER request shall be filed in accordance with paragraph (C) of this section and an answer to a request for other relief shall be filed in accordance with § 1150.43.

(e) Citations and answers in PER proceedings may not be amended prior to hearing. Citations and answers in PER proceedings may be amended at the hearing with the permission of the judge.

Subpart F—Responsibilities and Duties of Judge

§ 1150.51 Who presides.

(a) A judge assigned to the case under section 3105 or 3344 of Title 5, United States Code (formerly section 11 of the Administrative Procedure Act), shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

(b) The A&TBCB shall, in writing, promptly notify all parties and participants of the assignment of the judge. This notice may fix the time and place of hearing.

(c) Pending his/her assignment, the responsibilities, duties and authorities of the judge under these regulations shall be executed by the A&TBCB, through the Chairperson or another member of the A&TBCB designated by the Chairperson. A Board member shall not serve in this capacity in any proceeding relating to the member, his/her Federal agency, or organization of which he/she is otherwise interested.

§ 1150.53 Authority of judge.

The judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and maintain order. He/she shall have all powers necessary to effect these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in proceedings, or to consider other matters that may aid in the expeditious disposition of the proceedings.

(c) Require parties and participants to state their position with respect to the various issues in the proceedings.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him/her.

(f) Regulate the course of the hearing and conduct of counsel.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix time for filing motions, petitions, briefs, or other items in matters pending before him/her.

(j) Issue decisions.

(k) Take any action authorized by the rules in this part or the provisions of sections 551 through 559 of Title 5, United States Code (the Administrative Procedure Act).

§ 1150.54 Disqualification of judge.

(a) A judge shall disqualify himself/herself whenever in his/her opinion it is improper for him/her to preside at the proceedings.

(b) At any time following appointment of the judge and before the filing of the decision, any party may request the judge to withdraw on grounds of personal bias or prejudice either against it or in favor of any adverse party, by promptly filing with him/her an affidavit setting forth in detail the alleged grounds for disqualification.

(c) If, in the opinion of the judge, the affidavit referred to in paragraph (b) of this section is filed with due diligence and is sufficient on its face, the judge shall promptly disqualify himself/herself.

(d) If the judge does not disqualify himself/herself, he/she shall so rule upon the record, stating the grounds for his/her ruling. Then, he/she shall proceed with the hearing, or, if the hearing has closed, he/she shall proceed with the issuance of the decision.

Subpart G—Prehearing Conferences and Discovery

§ 1150.61 Prehearing conference.

(a) At any time before a hearing, the judge on his/her own motion or on motion of a party, may direct the parties or their representative to exchange information or to participate in a prehearing conference for the purpose of considering matters which tend to simplify the issues or expedite the proceedings.

(b) The judge may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served upon all parties and participants and shall be a part of the record.

§ 1150.62 Exhibits.

(a) Proposed exhibits shall be exhanged at the prehearing conference, or otherwise prior to the hearing if the judge so requires. Proposed exhibits not so exchanged may be denied admission as evidence.

(b) The authenticity of all proposed exhibits will be deemed admitted unless written objection to them is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 1150.63 Discovery.

(a) Parties are encouraged to engage in voluntary discovery procedures. For good cause shown under appropriate circumstances, but not as a matter of course, the judge may entertain motions for permission for discovery and issue orders including orders—(1) to submit testimony upon oral examination or written interrogatories before an officer authorized to administer oaths, (2) to permit service of written interrogatories upon the opposing party, (3) to produce and permit inspection of designated documents, and (4) to permit service upon the opposing parties of a request for the admission of specified facts.

(b) Motions for discovery shall be granted only to the extent and upon such terms as the judge in his/her discretion considers to be consistent with and essential to the objective of securing a just and inexpensive determination of the merits of the citation without unnecessary delay.

(c) In connection with any discovery procedure, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. If any party fails to comply with a discovery order of the judge, without an excuse or explanation satisfactory to the judge, the judge may decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with claims of the other party in interest or in accordance with the other evidence available to the judge, or make such other ruling as he/she determines just and proper.

Subpart H—Hearing Procedures

§ 1150.71 Briefs.

The judge may require parties and participants to file written statements of position before the hearing begins. The judge may also require the parties to submit trial briefs.

§ 1150.72 Purpose of hearing.

Hearings for the receipt of evidence will be held only in cases where issues of fact must be resolved. Where it appears from the citation, the answer, stipulations, or other documents in the record, that there are no matters of material fact in dispute, the judge may enter an order so finding, vacating the hearing date, if one has been set, and fixing the time for filing briefs.

§ 1150.73 Testimony.

(a) Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available do apply. Testimony shall be given orally under oath or affirmation; but the judge, in his/her discretion, may require or permit the direct testimony of any witness to be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record.

(b) All witnesses shall be available for cross-examination and, at the discretion of the judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding.

(c) When testimony is taken by deposition, an opportunity shall be given, with appropriate notice, for all parties to cross-examine the witness. Objections to any testimony or evidence presented shall be deemed waived unless raised at the time of the deposition.

(d) Witnesses appearing before the judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Witnesses whose depositions are taken and the persons taking the same shall be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party requesting the witness to appear, and the person taking a deposition shall be paid by the party requesting the taking of the deposition.

§ 1150.74 Exclusion of evidence.

The judge may exclude evidence which is immaterial, irrelevant, unreliable, or unduly repetitious.

§ 1150.75 Objections.

Objections to evidence or testimony shall be timely and may briefly state the grounds.

§ 1150.76 Exceptions.

Exceptions to rulings of the judge are unnecessary. It is sufficient that a party at the time the ruling of the judge is sought, makes known the action which he/she desires the judge to take, or his/her objection to an action taken, and his/her grounds for it.

§ 1150.77 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party on timely request, shall be afforded an opportunity to question the propriety of taking notice or to rebut the fact noticed.

§ 1150.78 Public documents.

When a party or paticipant offers, in whole or in part, a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments, or their subdivisions, legislative agencies or committees or administrative agencies of the Federal government (including government-owned corporations), or a similar document issued by a State or local government or their agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document by specifying the document or its relevant part.

§ 1150.79 Offer of proof.

An offer of proof made in connection with an objection taken to a ruling of the judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony. If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of the evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 1150.80 Affidavits.

An affidavit is not inadmissible as such. Unless the judge fixes other time periods, affidavits shall be filed and served on the parties not later than fifteen (15) days prior to the hearing. Not less than seven (7) days prior to hearing, a party may file and serve written objections to any affidavit on the ground that he/she believes it necessary to test the truth of its assertions at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the judge determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Not withstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 1150.81 Consolidated or joint hearing.

In cases in which the same or related facts are asserted to constitute noncompliance with standards or guidelines and requirements, the judge may order all related cases consolidated and may make other orders concerning the proceedings as will be consistent with the objective of securing a just and inexpensive determination of the case without unnecessary delay.

§ 1150.82 PER proceedings.

(a) In proceedings in which a citation, or part of one, seeking PER has been filed, the judge shall make necessary rulings with respect to time for filing of pleadings, the conduct of the hearing, and to all other matters. He/she shall do all other things necessary to complete the proceeding in the minimum time consistent with the objective of securing an expeditious, just and inexpensive determination of the case. The times for actions set forth in these rules shall be followed unless otherwise ordered by the judge.

(b) The judge shall determine the terms and conditions for orders of PER. These orders must be consistent with preserving the rights of all parties so as to permit the timely processing of the citation, or part of it, not requesting PER, as well as consistent with the provisions and objectives of the Architectural Barriers Act and Section 502 of the Rehabilitation Act. In issuing an order for PER, the judge shall make the following specific findings of fact and conclusions of law (1) The Executive Director is likely to succeed on the merits of the proceedings; (2) the threatened injury or violation outweighs the threatened harm to the respondent if PER is granted; and (3) granting PER is in the public interest.

(c) The judge may dismiss any citation or part of a citation seeking PER when the judge finds that the timely processing of a citation not requesting PER will adequately ensure the objectives of section 502 of the Rehabilitation Act and that immediate and irreparable harm caused by noncompliance with the standards or

guidelines and requirements is not occurring or about to occur.

Subpart I—The Record

§ 1150.91 Record for decision.

The transcript of testimony, exhibits and all papers, documents and requests filed in the proceeding, including briefs and proposed findings and conclusions, shall constitute the record for decision.

§ 1150.92 Official transcript.

The official transcripts of testimony, and any exhibits, briefs, or memoranda of law filed with them, shall be filed with the judge. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the A&TBCB and the reporter. Upon notice to all parties, the judge may authorize corrections to the transcript as are necessary to reflect accurately the testimony.

Subpart J—Posthearing Procedures; Decisions

§ 1150.101 Posthearing briefs; proposed findings.

The judge shall fix the terms, including time, for filing post-hearing statements of position or briefs, which may contain proposed findings of fact and conclusions of law. The judge may fix a reasonable time for such filing, but this period shall not exceed thirty (30) days from the receipt by the parties of the transcript of the hearing.

§ 1150.102 Decision.

(a) The judge shall issue a decision within thirty (30) days after the hearing ends or, when the parties submit posthearing briefs, within thirty (30) days after the filing of the briefs.

(b) The decision shall contain (1) all findings of fact and conclusions of law regarding all material issues of fact and law presented in the record, (2) the reasons for each finding of fact and conclusion of law, and (3) other provisions which effectuate the purposes of the Architectural Barriers Act and section 502 of the Rehabilitation Act. The decision may direct the parties to take specific action or may order the suspension or withholding of Federal funds.

(c) The decision shall be served on all parties and participants to the proceedings.

§ 1150.103 PER: Posthearing briefs, decision.

(a) No briefs or posthearing statements of position shall be required in proceedings seeking PER unless specifically ordered by the judge.

(b) In proceedings seeking PER the decision may be given orally at the close of the hearing and shall be made in writing within three (3) days after the hearing.

§ 1150.104 Judicial review.

Any complainant or participant in a proceeding may obtain judicial review of a final order issued in a compliance proceeding.

§ 1150.105 Court enforcement.

The Executive Director, at the direction of the Board, shall bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final compliance order. No member of the A&TBCB shall participate in any decision of the A&TBCB concerning a proceeding relating to the member, his/her Federal agency, or organization to which he/she is a member or in which he/she is otherwise interested.

Subpart K—Miscellaneous Provisions

§ 1150.111 Ex parte communications.

(a) No party, participant or other person having an interest in the case shall make or cause to be made an ex parte communication to the judge with respect to the case.

(b) A request for information directed to the judge which merely inquiries about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Communications with respect to minor procedural matters or inquires or emergency requests for extensions of time are not deemed ex parte communications prohibited by paragraph (a) of this section. Where feasible, however, such communications should be by letter, with copies delivered to all parties. Ex parte communications between a party or participant and the Executive Director with respect to securing compliance are not prohibited.

(c) In the event an ex parte communication occurs, the judge shall issue orders and take action as fairness requires. A prohibited communication in writing received by the judge shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in this memorandum may file a comment for inclusion in the docket if he/she considers the memorandum to be incorrect.

§ 1150.112 Post-order proceedings.

(a) Any party adversely affected by the compliance order issued by a judge may make a motion to the judge to have such order vacated upon a showing that the building or facility complies with the order.

(b) Notice of motions and copies of all pleadings shall be served on all parties and participants to the original proceeding. Responses to the motion to vacate shall be filed within ten (10) days after receipt of the motion unless the judge for good cause shown grants additional time to respond.

(c) Oral arguments on the motion may be ordered by the judge. The judge shall fix the terms of the argument so that they are consistent with the objective of securing a prompt, just, and inexpensive determination of the motion.

(d) Within ten (10) days after receipt of all answers to the motion, the judge shall issue his/her decision in accordance with § 1150.102 (b) and (c).

§ 1150.113 Amicable resolution.

(a) Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of the Architectural Barriers Act and section 502 of the Rehabilitation Act.

(b) Agreements to amicably resolve pending proceedings shall be submitted by the parties and shall be accompanied by an appropriate proposed order.

(c) The Executive Director is authorized to resolve any proceeding on behalf of the A&TBCB unless otherwise specifically directed by the A&TBCB and afterwards may file appropriate stipulations or notice that the proceeding is discontinued.

§ 1150.114 Effect of partial invalidity.

If any section, subsection, paragraph, sentence, clause or phrase of these regulations is declared invalid for any reason, the remaining portions of these regulations that are severable from the invalid part shall remain in full force and effect. If a part of these regulations is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

Issued in Washington, D.C. on November 17, 1980.

Max Cleland,

Chairperson, Architectural and Transportation Barriers Compliance Board.

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Tuesday
November 25, 1980

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

State of Indiana; Approval in Part and Disapproval in Part of the Permanent Program Submission Under the Surface Mining Control and Reclamation Act of 1977; Proposed Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval in Part and Disapproval in Part of the Permanent Program Submission From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On March 3, 1980, the State of Indiana submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Indiana program meets in part the minimum requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Indiana program. Indiana will not assume primary jurisdiction until all parts of its program receive approval.

DATE: Indiana has until January 26, 1981, to submit revisions of the disapproved portions of the program for the secretary's consideration.

ADDRESSES: Copies of the Indiana program and the Administrative Record on the Indiana program are available for inspection and copying during business hours at:

Indiana Department of Natural Resources Division of Reclamation, 309 West Washington Street, Suite 201, Indianapolis, Indiana 46204. Telephone: 317–232–1555

Office of Surface Mining Reclamation and Enforcement, Region III, 5th Floor, U.S. Courthouse and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: 317–269–2629

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:

Mr. Carl C. Close, Assistant Director State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240. Telephone: 202–343–4225

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into seven major parts:

A. General Background on the Permanent Program
B. General Background on State Approval Process
C. Background on the Indiana Program Submission
D. Secretary's Findings and Explanation
E. Disposition of Comments
F. The Secretary's Decision
G. Additional Findings

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Part B sets forth the general statutory and regulatory scheme applicable to all States which wish to obtain primary jurisdiction to implement the permanent program on non-Indian and non-Federal lands within their borders.

Part C summarizes the steps undertaken by Indiana and officials of the Department of the Interior, beginning with Indiana's program submission and leading to the decision being announced today.

Part D contains the findings the Secretary has made and the reasons for them.

Part E summarizes the significant public comments received on the Indiana program during the public comment period and discusses the Secretary's disposition of them.

Part F identifies those parts of the Indiana program which have been approved, and those which are disapproved, and the effect of this action.

Part G summarizes the Secretary's findings with regard to regulatory analysis and environmental impact of the decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received State permits on or after that date, and effective on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639.

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA. The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446) and August 6, 1980 (45 FR 52306). Portions of these regulations which have been suspended, pending further rulemaking were published on November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and August 4, 1980 (45 FR 51547–51549).

B. General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission of OSM and other agencies, an opportunity for the

State to make additions or modifications to the program and an opportunity for public comment, the Secretary may either approve the program, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. Actions of the Secretary relate to each part of the program. That is, the Secretary will either approve or disapprove each specific part of the program. If any part of a program is disapproved, the State may submit a revision to correct the items that need to be changed to meet the requirements of SMCRA and the applicable Federal regulations. if the revised program or a part thereof is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again resubmit a revised program to gain approval to assume primary jurisdiction after the Federal program has been implemented.

The procedure and timetable for the Secretary's review of State programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

Section 732.11(d) required that States make any modifications and additions by November 15, 1979. That section stated:

> Program submissions that do not contain all required and fully enacted laws and regulations by November 15, 1979, will be disapproved puraunt to the procedures for the Secretary's initial decision in Section 732.13.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for States to submit proposed programs was extended from August 3, 1979, to March 3, 1980 and the November 15, 1979, date in 30 CFR 732.11(a) and 732.12(b)(2) became obsolete as a result.

On May 20, 1980, 30 CFR 732.11(d) and 732.12(b)(2) were amended to change the November 15, 1979, date to the 104th day after program submission. Other minor adjustments were made to the timetables for comments and hearings (45 FR 33927). The Indiana program was submitted to OSM on March 3, 1980. The 104th day after March 3 was June 16, 1980. As of June 16, 1980, Indiana did not have fully enacted regulations to implement its program.

In a May 2, 1980, notice announcing that the original Indiana submission was incomplete, the Regional Director informed the public that this rule would apply in Indiana. See 45 FR 24310, Col. 3.

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program when necessary, to cure any deficiencies in it.

To accomplish both of these policy objections the Secretary determined that the laws and rules upon which the State bases its program must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing State programs, is using the criteria of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Indiana program, the Secretary has followed the Federal rules as corrected, amended, and suspended in the **Federal Register** notices cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court has issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in the suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a State program that incorporate suspended or remanded regulations" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve State program provisions equivalent to remanded or suspended Federal provisions in the circumstances described in paragraph one below. Therefore, the Secretary is applying the following standards to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either: (1) Before the enactment of SMCRA, or, (2) after the date of the Round II District Court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove to the extent required by the court's decision, all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and State courts. Accordingly, these provisions are not being pre-empted or superseded, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation.

4. A State must have the authority to implement all permanent program

provisions of SMCRA, including those provisions of SMCRA upon which the Secretary bases the remanded or suspended regulations including any provision upon which a suspended regulation was based.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only as to provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be unconditionally approved, conditionally approved, or disapproved in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in a **Federal Register** on July 7, 1980 (45 FR 45604). Because Indiana's regulations were not fully enacted on the 104th day after program submission, June 16, 1980, the Secretary is disapproving all the proposed State regulations at this time. Accordingly, he need not separately disapprove any State rules to comply with the court's order.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Indiana will be found in 30 CFR Part 914 once Indiana's resubmission has been approved or finally disapproved after opportunity for resubmission, or if Indiana does not resubmit its program at the appropriate time.

C. Background on the Indiana Program Submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Indiana. The program was submitted by the Indiana Department of Natural Resources, the agency designated as the primary regulatory authority under the Indiana permanent program. On March 7, 1980, Indiana amended its original submittal by requesting that Engrossed Bill No. 98, submitted on March 3, 1980, be replaced by the State's fully enacted statute, Indiana enrolled Act No. 98 (IC. 13–4.1).

Notice of receipt of the submittals of March 3, 1980, and March 7, 1980, was published in the March 11, 1980, **Federal Register** (45 FR 15580–15581) and in newspapers of general circulation in Indiana. The announcement disclosed the availability of the program documents and invited public participation in the review process as it related to the regional director's determination of completeness.

In order to offer Indiana maximum opportunity to correct any inadequacies, OSM reviewed the Indiana statutes and expressed its concern over possible inadequacies in a letter to the State dated April 7, 1980 (Administrative Record No. (ARN) IND–0044).

On April 10, 1980, the regional director held a public review meeting in Indianapolis, Indiana, concerning the completeness of the program submission. The public comment period on completeness began on March 12, 1980, and closed April 15, 1980.

On May 2, 1980, the regional director published notice in the **Federal Register** (45 FR 29309–29310) announcing that the Indiana program submission had been determined to be incomplete. The notice specified that the submission was missing nine required elements.

On May 22, 1980, OSM provided initial comments to Indiana on the Indiana statutes and program narratives submitted by the State. (Administrative Record No. IND–0065)

On June 4, 1980, Indiana submitted to OSM Region III proposed permanent program regulations and the Indiana administrative procedures handbook. On June 16, 1980, Indiana further amended its submittal package with a legal opinion from the State Attorney General's office and additions to the program narrative.

On June 26, 1980, the regional director published notice in the **Federal Register** (45 FR 43223–43224) and in newspapers of general circulation within the State a summary of the amended State program, the times and locations for public review of the program, and procedures for the public hearing and comment period on the substance of the Indiana program.

On July 11, 1980, OSM invited comment on a tentative list of Indiana program provisions which appeared to incorporate suspended and remanded Federal Regulations (45 FR 46822).

Public hearings regarding the Indiana permanent program submission were held in Indianapolis, Indiana, on July 23, 1980, and Evansville, Indiana, on July 24, 1980.

On July 30, 1980, Indiana informed the regional director that the Indiana circuit court of Marion County had enjoined it (on July 29, 1980) for a period of one year from any further action it might wish to take to submit or resubmit its State program. See discussion below under "Effect of This Action."

On August 4, 1980, the regional director completed his program review and forwarded the public hearing transcripts, written presentation, exhibits and copies of all comments to the Director with a recommendation that the program be initially disapproved.

On August 12, 1980 (45 FR 53489), the Secretary publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies.

On August 22, 1980 (Administrative Record No. IND–0172), the Director communicated to Indiana the August 15, 1980, court opinion staying its earlier order to "affirmatively disapprove" segments of a State program incorporating suspended or remanded Federal regulations. The State was asked to inform OSM if there were any such provisions in its program that Indiana wished the Secretary *not* to affirmatively disapprove. No reply has been received from the State; in any event, all draft State regulations are being initially disapproved since they were not fully promulgated by the 104th day after program submission.

On September 4, 1980 the Administrator of the Environmental Protection Agency transmitted his written concurrence on the portions of the Indiana program that the Secretary has approved.

On September 10, 1980, the Director recommended to the Secretary that the Indiana program be approved in part and disapproved in part. Concurrently with the publication of this notice, a letter announcing the Secretary's decision to approve in part and disapprove in part the Indiana program was conveyed to Governor Bowen, and to the regulatory authority. In addition, the Director of the Office of Surface Mining is transmitting detailed findings on the unenacted Indiana regulations to the regulatory authority.

D. Secretary's Findings and Explanation

Note on Findings

Since the Secretary is approving part of the Indiana statute and disapproving other parts, the State will have the opportunity to resubmit its program and provide information to satisfy the Secretary's concerns on those parts of the statute being disapproved. For those sections, the Secretary's finding that they are disapproved may be remedied in the resubmission either by a change

in the provisions or by other information being provided which demonstrates why they are acceptable in their current form. The Secretary is disapproving all of Indiana's rules because they were not fully promulgated by June 16, 1980, the 104th day following program submission. Accordingly, the particular provisions of the proposed state rules are not discussed below in the findings. However, the Secretary has reviewed the proposed Indiana rules and his tentative evaluation of their adequacy and an explanation of deficiences identified during the review, is being sent to the state and will be available for public review at the places listed above under addresses.

Section 503 Findings

In accordance with Section 503(a) of SMCRA, the Secretary makes Findings 1–11 below.

(1) The Secretary finds that the State of Indiana does not have a State law which provides in full for regulation of surface coal mining and reclamation operations in accordance with the requirements of SMCRA. The reasons underlying this finding are found in discussions relating to statutory provisions which are set forth specifically under Findings 12 through 30 below. With respect to each section of the State law submitted by Indiana, except IC 13–4.1–1–1, the Secretary is either approving or disapproving the section for the reasons set forth in these findings. With respect to IC 13–4.1–1–1, the Secretary is neither approving nor disapproving the provision which is non-substantive in nature and repeats positions Indiana has taken in litigation against the Secretary, to the effect that Indiana opposes SMCRA. The Secretary is in no way endorsing or agreeing to the position of Indiana as set forth in IC 13–4.1–1–1.

(2) The Secretary finds that Indiana does not have a State law which fully provides sanctions for violations of State laws, regulations or conditions of permits concerning surface coal mining and reclamation operations and which meet the minimum requirements of SMCRA including criminal sanctions, forfeiture of bonds, suspensions, revocations, and withholding of permits and the issuance of cease and desist orders by the State regulatory authority or its inspectors. See discussions specifically set forth under Findings 18, 19, and 20 below.

(3) The Secretary finds that Indiana does not have a State regulatory authority with sufficient administrative and technical personnel and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA for the reasons set forth below under Finding 30.

(4) The Secretary finds that Indiana does not have a State law which fully provides for the effective implementation, maintenance, and enforcement of a permit system meeting the requirements of SMCRA for the regulation of surface coal mining and reclamation operations for non-Indian and non-Federal coal on lands within the State, for the reasons set forth more specifically under Finding 14 below.

(5) The Secretary finds that the State program does not adequately provide for establishment of a process for designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA for the reasons specifically set forth below under Finding 21.

(6) The Secretary finds that the State program fails to provide for the establishment for purposes of avoiding duplication of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal or State permit processes applicable to the proposed operations.

(7) The Secretary finds that the State of Indiana does not have rules and regulations fully consistent with the regulations issued by the Secretary pursuant to SMCRA because the State did not have fully enacted regulations on June 16, 1980, as required under 30 CFR 732.11(d).

(8) The Secretary solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Indiana program.

(9) The Secretary obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Indiana program being approved today and which relate to air or water quality standards promulgated under the authority of the Clean Water Act, 33 U.S.C. 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*

(10) The Secretary, through OSM, held a public review meeting in Indianapolis, Indiana, on April 10, 1980, to discuss the Indiana program submission and its completeness and held public hearings in Indianapolis, Indiana, on July 23, 1980, and in Evansville, Indiana, on July 24, 1980, on the substance of the Indiana program submission.

(11) The Secretary finds that the State of Indiana does not have the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII, for the reasons set forth below under Finding 30.

30 CFR 732.15 Findings

In accordance with 30 CFR 732.15, the Secretary further finds, on the basis of information in the Indiana program submission, public comments and testimony and written presentations at the public hearings and other relevant information, that:

Finding 12

The Indiana permanent program submission does not provide complete authority for the State to assume responsibility for regulation of coal exploration and surface coal mining and reclamation operations as required by SMCRA and the Secretary's regulations. This finding is made under § 732.15(a). For detailed discussion of the bases underlying it, see Findings 13–30 below. Indiana has not chosen to propose alternative approaches pursuant to 30 CFR 731.13; therefore, no findings are made regarding alternative provisions.

Finding 13

The Secretary finds that Indiana does not have adequate authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indian program submission does not include the necessary provisions to fully implement, administer and enforce all applicable requirements consistent with Subchapter K of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(1) and is based on the failure to enact the necessary regulations as well as on the items listed below.

13.1 Section 512(a)(2) provides for reclamation in accordance with the performance standards in Section 515. The Indiana statute (IC 13–4.1–7–3(3)) does not require that all of the performance standards equivalent to those found in Section 515 of SMCRA apply to these operations. It excludes the requirements of Section 515(b)(15) dealing with the use of explosives and thus is less stringent than SMCRA.

13.2 Section 515(b)(3) of SMCRA requires backfilling to achieve approximate original contour while the Indiana statute (IC 13–4.1–8–1(3)) would limit this requirement to those instances where it is advisable to insure stability or to prevent leaching of toxic materials. The Indiana statute is less stringent than the Federal requirement.

13.3 Section 515(b)(7) of SMCRA requires that specifications for all prime

farmlands for soil removal, storage, replacement and reconstruction shall be established by the United States Secretary of Agriculture while the Indiana statute (IC 13–4.1–8–1(7)) would have such requirements established by its Commission and thus is inconsistent with SMCRA.

13.4 Section 515(b)(13) of SMCRA requires that coal mine waste piles used as dams or embankments be in accordance with standards approved by the Secretary of the Interior with the concurrence of the Chief of Engineers. The Indiana statute (IC 13–4.1–8–1(13)) would require compliance with standards established by the Chief of Engineers rather than by the Secretary of the Interior and is thus inconsistent with SMCRA.

13.5 Section 515(b)(20) of SMCRA refers to applicable five or ten year periods of responsibility for revegetation in connection with a long term intensive agricultural post mining land use. The ten year period is applicable only in those areas or regions of the country where the annual average precipitation is 26 inches or less which would exclude Indiana. The Secretary finds that the mention of the ten year period in the Indiana statute (IC 13–4.1–8–1(20)) is not inconsistent with SMCRA; it simply would not be applicable in Indiana.

13.6 Section 515(b)(25) of SMCRA requires that an undistrubed natural barrier be retained in place as a barrier to slides and erosions. The Indiana statute (IC 13–4.1–8–1(24)) does not contain the specific language "shall be retained in place", but at a public meeting held on June 4, 1980, representatives of the State of Indiana indicated that its law would have the same effect at SMCRA (ARN IND–0088). The Secretary agrees that the barrier would have to be retained in place in order to continue to be a barrier as required by the Indiana law, and accordingly finds the Indiana statute to be consistent with the Federal law in this regard.

13.7 Section 516(b)(5) of SMCRA requires that the Secretary of the Interior establish certain standards with regard to waste piles with the concurrence of the Chief of Engineers. The Indiana statute (IC 13–4.1–9–1(5)) would provide for use of standards established by the Chief of Engineers rather than by the Secretary of the Interior and thus is inconsistent with SMCRA.

13.8 Section 711 of SMCRA provides for experimental practices. The Indiana statute (IC 13–4.1–3–5) provides for such practices consistent with SMCRA. SMCRA does state that departures from performance standards promulgated under Section 515 and 516 may be authorized as long as the experimental practices are at least as environmentally protective as those required by, and do not reduce public health and safety below that provided by, the "promulgated standards." Indiana allows such departures if they are at least as environmentally protective as those required by, and do not reduce public health and safety below that provided by, "commission regulations governing this section." The proposed Indiana regulations concerning experimental practices (§ 785.13) are in accord with the Federal rules.

Finding 14

The Secretary finds that Indiana does not have full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to implement fully, administer, and enforce applicable requirements consistent with Subchapter G of 30 CFR Chapter VII and prohibit surface coal mining and reclamation operations without a permit issued by the State. This finding is made under 30 CFR 732.15(b)(2) and is based on the failure fully to enact the necessary regulations as well as the items listed below.

14.1 Section 506(a) of SMCRA requires that no person shall engage in surface coal mining operations unless the person has obtained a permit issued by the regulatory authority. The Indiana statute does not contain this requirement and thus is less stringent than SMCRA.

14.2 Section 506(b) of SMCRA limits the term of permits to a maximum of five years and provides a longer term if the applicant demonstrates it is needed to obtain financing for equipment and the opening of the operations. The Indiana statute, IC 13–4.1–5–1(b), requires the applicant to show additional time is needed to obtain financing for either equipment or the opening of the mine. Also, the Indiana statue, IC 13–4.1–5–1(a) and (c), provides for a life of mine permit, not provided in SMCRA. Accordingly, the Indiana statue is inconsistent with SMCRA because longer permits can be issued on lesser showings, thus reducing public and agency review of proposed mining operations.

14.3 Section 506(d)(1) of SMCRA requires fulfillment of the public notice requirements of Section 513 and 514 of SMCRA prior to issuance of a renewal permit. The Indiana statue, IC 13–4.1–3–3(a)(3), limits this requirement to permits held since 1970 and requires the statement only on the first application with provision for updating on subsequent applications, and thus provides a lesser standard than the Federal law.

14.4 Section 507(b)(11) of SMCRA provides that a permit shall not be approved until the hydrologic information is available and is incorporated into the application, while the Indiana statute, IC 13–4.1–3–3(a)(11), allows permit approvals when the required information is not available and thus appears inconsistent with SMCRA.

14.5 IC 13–4.1–4–3(a)(1) of the Indiana statute, concerning reclamation plans, is less stringent than Section 508(a)(1) of SMCRA because it requires less information from the permit applicant, since it limits identification to life of the "permit" instead of "operations" and omits identification of subareas.

14.6 IC 13–4.1–43–4(a)(7) of the Indiana statute is less stringent than Section 508(a)(5) of SMCRA because it requires an estimate of reclamation costs only if requested by the Director of the Indiana Department of Natural Resources, while SMCRA requires such an estimate in every instance. This standard is less than that prescribed by SMCRA.

14.7 IC 13–4.1–3–4(a)(13) of the Indiana statute is inconsistent with Section 508(a)(11) of SMCRA concerning information on interest in lands contiguous to the area to be covered by the permit, because the Indiana statute makes this information confidential and SMCRA requires it to be public. The Indiana scheme thus provides less opportunity for meaningful public participation.

14.8 IC 13–4.1–6–1 of the Indiana statute is less stringent than Section 509(a) of SMCRA by omitting the phrase " and the permit" concerning performance bonds. This could result in a bond that is not conditioned upon any special requirements contained in the permit.

14.9 IC 13–4.1–4–3(a)(6) of the Indiana statute is inconsistent with Section 510(c) of SMCRA because it limits violations to be considered to those "pertaining to air or water environmental protection." By contrast, SMCRA also provides for consideration of violations of SMCRA and any law, rule, or regulation of the United States.

14.10 Indiana Section IC 13–4.1–4–3(d) is not consistent with Section 510(d)(2) of SMCRA. The Indiana provision would appear to allow an operator that held a permit on August 3, 1977, continually to renew and revise

the permit to increase the acreage covered by the permit. This increased acreage would be subject to the prime farmland "grandfather" exemption from strict environmental protection standards otherwise required to be met. This issue has also been addressed in the recent decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Civil Action No. 78–0162, pages 26–31). That opinion recognized that at some point there must be an end to the area that can be added to a "grandfathered" pemit through renewals and revisions.

14.11 IC 13–4.1–3–3(a)(15) is inconsistent with SMCRA Section 507(b)(15) in that the Indiana provision does not require that any waiver concerning the statement of results for test boring and core sampling be made with respect to the specific application and by a written determination that such requirements are unnecessary.

14.12 IC 13–4.1–3–4(a)(2) (A) and (B) is inconsistent with SMCRA Section 508(a)(2) (A) and (B) in that the Indiana provisions limit the applicability of information required in the reclamation plan concering the condition of the land prior to any mining to only "coal mining." This change has the effect of potentially eliminating reporting requirements on vast quantities of land, and is therefore less stringent than the Federal requirement.

Finding 15

The Secretary finds that Indiana does not have full authority under enacted Indiana laws pertaining to coal exploration and surface coal mining and reclamation operations or the necessary regulations and the necessary program provisions to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. This finding is made under 30 CFR 732.15(b)(3) and is based on the failure fully to enact the necessary regulations as well as the item listed below.

15.1 Section 512(c) of SMCRA requires that any person who conducts any coal exploration activities which substantially disturbs the natural land surface in violation of it or any regulation issued pursuant to it shall be subject to the penalty provisions of Section 518 of SMCRA. Under the Indiana statute, IC 13–4.1–7–1 and –3, it is not clear that the Indiana Natural Resources Commission or the Indiana Department of Natural Resources by regulation could subject an operator who is in violation to the penalty provisions of the State statute, and is thus inconsistent with SMCRA.

Finding 16

The Secretary finds that Indiana does not have full authority under State laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and the State program does not include the necessary provisions fully to require that persons extracting coal incidental to government financed construction maintain information on site consistent with 30 CFR Part 707. This finding is made under 30 CFR 732.15(b)(4) and is based on the failure fully to enact the necessary regulations.

Finding 17

The Secretary finds that the State does not have the full authority under State laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and the State program does not include the necessary provisions to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within the State consistent with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(5) and is based on the failure to enact the necessary regulations, as well as the items below.

17.1 The Indiana statutes, proposed regulations, and narratives do not appear to give field inspectors the authority and the direction to issue notices of violation and cessation orders and therefore are inconsistent with Section 521 of SMCRA and 30 CFR Part 843.

17.2 The Indiana statute (IC 13–4.1–11–1) is inconsistent with SMCRA because it fails to contain the requirements of Section 517(b)(1) (B), (C), (D), and (E) that the regulatory authority require the permittee to make monthly reports; install, use, and maintain monitoring equipment or methods; evaluate results; and provide other reasonable and necessary information.

17.3 The Indiana statute IC 13–4.1–3–3(a)(11) and (14)(4) is inconsistent with Section 517(b)(2) of SMCRA because it fails to contain the hydrologic monitoring requirements for operations which remove or disturb strata that serve as aquifers.

17.4 The Indiana statute, IC 13–4.1–11–1(b)(3), is inconsistent with Section 517(b)(3)(A) of SMCRA because it fails to include right of entry to premises where records are kept.

17.5 The Indiana statute, IC 13–4.1–11–1(b)(1), is inconsistent with SMCRA because it provides for a delay in allowing access to records not allowed by Section 517(b)(3)(B) of SMCRA.

17.6 The Secretary is unable to find the Indiana statute, IC 13–4.1–11–1(b)(3), to be consistent with Section 517(b)(3) of SMCRA, because it is applicable to "surface coal mining and reclamation premises", an undefined phrase, while SMCRA is applicable to a specifically defined "surface coal mining and reclamation operations." The Secretary is concerned that inspectors have access to all parts of a mining and reclamation operation in order to be able to carry out their duties.

17.7 The Indiana statute, IC 13–4.1–11–2(b), is inconsistent with SMCRA Section 521(a)(1) in that while it would allow persons to accompany the director on an inspection, it would absolve the operator or permittee from any liability. There is no similar provision in SMCRA and this would appear to absolve operators and permittees from common law duties and could have a chilling effect on citizen participation.

17.8 The Indiana statutes, IC 13–4.1–11–3(a) and IC 13–4.1–11–4, are inconsistent with Section 517(e) of SMCRA because they do not require that each inspector upon detection of each violation notify the operator in writing and report in writing any such violation to the regulatory authority. Adequate enforcement depends in large part, on prompt notification to alleged violators and to the regulatory authority.

17.9 The Indiana statute, IC 13–4.1–11–3(b), is inconsistent with the public participation guarantees of Section 517(f) of SMCRA because it fails to require that the materials referenced in this section be made immediately and conveniently available to the public at central and sufficient locations in the county, multi-county and state area of mining.

17.10 The Indiana statute is inconsistent with Section 517(h) of SMCRA since it omits the right of any person adversely affected by a surface coal mining operation to notify the regulatory authority of any violation, the right to a review of a refusal to issue a citation, the right to written reasons for final disposition, the right to notify the regulatory authority of a failure to inspect, and the right to written reasons for the final determination.

Finding 18

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions fully to implement,

administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirement of Subchapter J of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(6) and is based on the failure of Indiana to enact the necessary regulations, as well as the item listed below.

18.1 Indiana statute 13–4.1–6–7 is inconsistent with Section 519(a)–(g) of SMCRA in that SMCRA requires that planning agencies and others be notified of bond release applications, while the Indiana statute makes it optional.

Finding 19

The Secretary finds that the State Regulatory Authority does not have full authority under State laws and regulations to provide civil and criminal sanctions for violations of the State law, regulations and conditions of permits, and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845, including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(7) and is based on the failure fully to enact the necessary regulations, as well as items below.

19.1 The Indiana statute, IC 13–4.1–12–1(b)(1), is inconsistent with Section 518(a) of SMCRA because it fails to provide penalties in the amount of $5,000 "per violation" as required by the Federal law.

19.2 Based on the material submitted, it is unclear as to whether or not the Indiana statute, IC 13–4.1–12–2, provides a criminal fine consistent with the fine provided by Section 518 (e) and (g) of SMCRA.

19.3 The Indiana statute, IC 13–4.1–12–1(b), is inconsistent with Section 518(h) of SMCRA because it provides that the allotted time period for the correction of a violation and, therefore, issuance of a cessation order for non-abatement, extends "until all proceedings challenging the violation are final," in contrast to SMCRA which requires that the time permitted for correction may be stayed only when "* * * the Secretary orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings * * * or wherein the court order suspension of the abatement requirements * * *." In other words, in some circumstances where the Federal statute requires a cessation order be issued, the Indiana statute would not.

19.4 The Indiana statute, IC 13–4.1–12–4, is inconsistent with Section 518(f) of SMCRA in that it is not clear that the violation of a permit condition is covered in this section as is required by SMCRA. This same situation exists in reference to the Indiana statute sections discussed in findings 19.1, 19.2, and 19.3.

19.5 The Indiana statute, IC 13–4.1–12–1(b), and proposed rules are inconsistent with Section 518(h) of SMCRA and 30 CFR 845.15(b) because they fail to provide a minimum penalty of $750 for each day during which a failure to abate a violation continues.

19.6 Section 521(c) of the SMCRA authorizes the Secretary to request the Attorney General to institute a civil action against a permittee whenever that permittee "violates *or fails or refuses to comply with* any order or decision issued by the Secretary or his authorized representatives." The Indiana statute, IC 13–4.1–11–10(l), deletes the phrase "or fails or refuses to comply with." As a result of this difference, the Indiana law could be construed to require an affirmative act of "violation." The Federal law clearly authorizes criminal and civil actions for acts of "omission" as well. Accordingly, this provision of the Indiana law is found to be inconsistent with SMCRA.

Finding 20

The Secretary finds that the State regulatory authority does not have full authority under State laws and regulations to issue, modify, terminate and enforce notices of violations, cessation orders, and show cause orders in accordance with Section 521 of the Act and consistent with the requirements of Subchapter L of 30 CFR Chapter VII, including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(8) and is based on the failure fully to enact the necessary regulations, as well as the items below.

20.1 The Indiana statute, IC 13–4.1–11–5(a), is inconsistent with Section 521(a)(2) of SMCRA in that it does not provide that a cessation order shall be issued whenever it is determined that a "condition or practice" creates an imminent danger to the health or safety of the public or is causing a significant, imminent, environmental harm.

20.2 The Indiana statute, IC 13–4.1–11–7, limits the authority to issue, modify, vacate, and terminate notices of violation and cessation orders to the Director. This is inconsistent with Section 521(a)(2) and (3) of SMCRA which provide authorized representatives (inspectors) with this authority.

20.3 The Indiana statute, IC 13–4.1–11–6, is inconsistent with section 521(a)(4) of SMCRA because it fails to apply to violations of permit conditions.

Finding 21

The Secretary finds that Indiana does not have the required authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include required provisions to designate areas as unsuitable for surface coal mining consistent with Subchapter F of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(9) and is based on the failure to fully enact the necessary regulations, as well as the items below.

21.1 Indiana Sections 13–4.1–14–4 and 5 are inconsistent with Section 522(a) of SMCRA. The Indiana statute does not provide a planning process separate from the petition process. The Indiana statute also does not provide a data base and inventory system.

21.2 Indiana Section 13–4.1–14–2 is inconsistent with Section 522(c) of SMCRA. The Indiana statute changes the Federal language "which would tend to establish the allegations" to "establishing" the allegations in 13–4.1–14–2(a) and (b). This places a much stronger burden on a petitioner seeking an unsuitability designation. Further, the Indiana Administrative Adjudication Act (AAA), IC 4–22–1, provides for adjudicatory hearings rather than the legislative hearing required in Section 522(c) of SMCRA.

21.3 Indiana Section IC 13–4.1–14–1(a) appears to be inconsistent with Section 522(e) of SMCRA. The Indiana phrase "surface coal mining and reclamation" would appear to prohibit reclamation activities on lands covered by Section 522(e).

Finding 22

The Secretary finds that Indiana does not have the full authority under enacted laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to provide for public participation in the development, revision and enforcement of State regulations and the State program, consistent with public participation requirements of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(10) and is based on the failure fully to enact the necessary

regulations, as well as the items listed below.

22.1 The Indiana Code Section 13–4.1–5–4 omits the public notice requirements of Section 506(d) of SMCRA with regard to permit renewal and therefore is inconsistent with SMCRA.

22.2 Indiana Code Section 13–4.1–4(A)(B) is inconsistent with Section 508(a)(11) of SMCRA in that it would make information confidential which is public under the Federal section.

22.3 Indiana Section 13–4.1–5–5(b) is inconsistent with Section 511(a)(2) of SMCRA. The Indiana statute does not require that any revisions which propose significant alterations in the reclamation plan shall at a minimum be subject to notice and hearing requirements as does SMCRA.

22.4 Indiana Section 13–4.1–4–1 is inconsistent with section 513(a) of SMCRA. It deletes the requirement that the applicant submit a copy of his advertisement to the regulatory authority as required by SMCRA. Further, the section does not require that the advertisement contain the "ownership, precise location, and boundaries of the land to be affected." This appears substantially less conducive to public participation than the Federal requirement.

22.5 The Indiana statute omits from IC 13–4.1–4–5 the requirement of Section 514(f) of SMCRA that appeals filed under this section be in accordance with Section 526 (a)(2) of SMCRA which provides a thirty (30) day period for judicial review. By not having a similar reference, the Indiana statute is less stringent and provides a lesser degree of public and operator rights than set forth in SMCRA.

22.6 Indiana Code Section 13–4.1–1–11–3(b) is inconsistent with Section 517(f) of SMCRA. The locations and availability of the records, reports, inspection materials and information required by the Indiana section appear to be insufficient and inconsistent with the Federal requirements in that Indiana only requires this information to be available "at the department," and not in sufficient locations so that they are conveniently available to residents in the area of mining.

22.7 Indiana Code Section 13–4.1–6–7 is inconsistent with Section 519(a)–(g) of SMCRA for the reasons explained in Finding 18.1.

22.8 Indiana Section 4–22–1–21 (Administrative Adjudication Act) is inconsistent with Section 519(h) of SMCRA. SMCRA authorizes inspection of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. The Indiana section omits this requirement.

22.9 Indiana Code Section 13–4.1–11–11 is inconsistent with Section 520 of SMCRA in that it fails to allow the Secretary of the Interior to intervene as of right in a suit to compel compliance with SMCRA. Indiana does not explain the limitations included in Indiana Code section 13–4.1–11–11(a)(2). The Indiana statute also does not provide that the Secretary gets notification of such suit. It does not contain the requirement similar to that of Section 520(e) of SMCRA that nothing restricts any right of any person to seek enforcement of any of the provisions of SMCRA and the regulations thereunder, or to seek other relief. Further the Indiana statute does not contain a requirement of Section 520(f) of SMCRA that a person who is injured through a violation by any operator may sue for damages only in the judicial district in which the surface coal mining operation is located. This omission could allow for "forum shipping" by injured parties and therefore is inconsistent with the Federal section.

22.10 Indiana Section 13–4.1–14–2 is inconsistent with Section 522(c) of SMCRA. It appears that it provides for adjudicatory hearings rather than the legislative type hearings required by SMCRA. Also see findings 21.2.

22.11 Indiana Sections 13–4.1–4–2(a) and 13–4.1–4–4(a)(b) are inconsistent with Section 513(b) of SMCRA in that Indiana provides for a "hearing" instead of an "informal conference" concerning an application for a permit. This could adversely affect public participation in the decisionmaking process.

22.12 During the development of the Indiana statutes, the Indiana Interim Study Committee on Coal Mining held public meetings on July 10, August 10, September 14 and 21, and November 16, 1979 to receive comments from interested parties. Once comments were received and considered, the Indiana statute was submitted to the General Assembly and was passed according to the requirements of State law. This meets with the public participation requirements of SMCRA and the Federal rules for development of State program statutes.

22.13 During the development of the Indiana rules, a committee composed of people from the coal industry, consultants and the Indiana Department of Natural Resources reviewed and commented on each section. Further, as part of the promulgation process, the Indiana Department of Natural Resources held a public hearing on July 22, 1980 at Vincennes, Indiana to allow the public an opportunity to comment on the Indiana regulations. The public comment period was kept open after this hearing to allow public comment on its program. The Indiana rules are still in the promulgation process. The steps taken so far are consistent with requirements for public participation in one development of State program rules.

Finding 23

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions to monitor, review and enforce the prohibition against indirect or direct financial interest from coal mining operations by employees of the State regulatory authority consistent with 30 CFR Part 705. This finding is made under 30 CFR 732.15(b)(11) and is based on the failure to fully enact the necessary regulations.

Finding 24

The Secretary finds that the State of Indiana did not address requirement regarding the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with section 719 of SMCRA. Although no state program is required to implement the regulatory provisions until six months after final Federal regulations for this matter are promulgated and such regulations have not been issued as yet, the State does have to have the statutory authority to implement the eventual regulations. This finding is made under 30 CFR 732.15(b)(12).

Finding 25

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to provide for small operator assistance consistent with 30 CFR Part 795. This finding is made under 30 CFR 732.15(b)(13) and is based on the failure to fully enact the necessary regulations.

Finding 26

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions to provide for the

protection of State employees of the regulatory authority in accordance with the protection afforded Federal employees under Section 704 of SMCRA. This finding is made under 30 CFR 723.15(b)(14) and is based on the failure fully to enact necessary regulations, as well as item listed below.

26.1 Indiana Section 13–4.1–12–3 does not appear consistent with Section 704 of SMCRA. Although the Indiana language in this section is substantially the same as that of the Federal section, it is not clear that this protection is afforded to all employees. The Indiana statute seems to allow for protection of only the Director, but does not specifically provide protection for any other employee.

Finding 27

The Secretary finds that the State regulatory authority does not have full authority under enacted State laws and regulations to provide administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(15) and is based on the failure fully to enact the necessary regulations, as well as items listed below.

27.1 The Indiana Section, IC 13–4.1–13, is inconsistent with Section 526(a)(2) of SMCRA because it fails to provide for judicial review within 30 days from the date of order or decision in a civil penalty proceeding or other proceeding.

27.2 The Indiana statute, IC 13–4.13–13, is inconsistent with Section 526(b) of SMCRA because it fails to provide for standards of judicial review of regulatory actions equivalent to that found in SMCRA. The Secretary believes that without such standards, regulatory authority decisions could be overturned in Indiana courts in circumstances where they would be upheld under the Federal requirements.

Finding 28

The Secretary finds that the State does not have full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to cooperate and coordinate with and provide documents and other information to the office of Surface Mining in accordance with the provisions of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(1) and is based on the failure fully to enact the necessary regulations.

Finding 29

The Secretary finds that the Indiana laws and regulations and program may contain provisions which would interfere with or preclude implementation of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(c).

29.1 It is not clear that the disclaimer at the beginning of the Indiana Statute 1C 13–4.1–1–5(b) and (c) would not have the effect of voiding the entire Statute if any Section of SMCRA is found to be unconstitutional.

29.2 It is not clear that the Indiana Administrative Adjudication Act is consistent with and does not preclude the hearing and notice requirements of SMCRA and 30 CFR Chapter VII. This would be inconsistent with SMCRA and the Federal rules.

29.3 It is noted that some of the discrepancies between the Indiana laws and rules, and SMCRA and the Federal rules might be explained in the State Attorney General's opinion. The submitted opinion from the office of the Indiana Attorney General does not contain a complete section-by-section comparison of the Indiana Act and proposed rules and SMCRA and the Federal rules and does not contain any explanation of the differences between these as is required by 30 CFR 731.14(c).

29.4 The opinion from the Indiana Attorney General's office may not fulfill the requirements of 30 CFR 731.14(c) in that it is not clear that under the State's present law any person other than the Attorney General has the authority to sign a legal opinion. Further, it is not clear that the Attorney General has the authority to delegate this power. This should be clarified in the resubmitted program.

Finding 30

The Secretary finds that Indiana has not demonstrated adequately that the Division of Reclamation and other agencies having a role in the program would have sufficient legal, technical, and administrative personnel, and sufficient funds to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable State and Federal laws. Indiana has failed fully to demonstrate through descriptions, systems, statistical data, and supporting agreements, its administrative and financial capability adequately to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding is made under 30 CFR 732.15(d).

30.1 The Indiana program provisions describing the existing and proposed structural organization of the regulatory authority and of other applicable agencies which will have duties in the State program and indicating the coordination system between these agencies and the lines of authority and staffing functions within each agency and between agencies appears to be inadequate and inconsistent with the requirements of 30 CFR 731.14(i)–(m). The organizational charts submitted do not include sufficient data on personnel to allow for a determination of the capability of the agency to perform assigned missions. No information was provided about means of coordination or mechanisms for dealing with intra-agency or inter-agency staffing. Only the existing organizational charts have been submitted; no proposed organizational structures were identified.

30.2 30 CFR 731.14(f) requires submission of a copy of supporting agreements between agencies which will have duties in the State program. The Indiana submission of March 3, 1980, contained no supporting agreements between agencies. On June 16, 1980, the 104th day after initial program submittal, the State furnished copies of proposed supporting agreements between the Indiana Department of Natural Resources and the Indiana Stream Pollution Control Board, the Indiana Air Pollution Control Board, U.S. Department of Agriculture, Soil Conservation Service, and the U.S. Corps of Engineers. These proposed agreements were not signed or in effect at the time of submission, nor was there any indication when they would be. Therefore, they do not provide an adequate basis upon which the Secretary could approve the program's narrative.

30.3 30 CFR 731.14(i) requires a summary table of the existing and proposed State program staff showing job functions, titles, and required job experience and training. The Indiana program provisions do not satisfy this requirement. The Indiana submittal contains only one set of tables with no explanation about whether it is current or proposed.

30.4 The Indiana submission does not describe sufficiently how the staffing for the State program will be adequate to carry out the identified administrative, technical, permitting, or enforcement elements. There is no demonstration that the number or variety of technical specialists relates in any way to the workload as required by 30 CFR 731.14(j).

30.5 30 CFR 731.14(k) requires a summary table of the existing and proposed State program staff, showing job functions, titles, and required job

experience and training. The Indiana submission provides only one set of tables which does not distinguish between present and proposed staffing. The Indiana submission does not describe sufficiently how the staffing for the State program will be adequate to carry out the identified administrative, technical, permitting, or enforcement elements.

30.6 30 CFR 731.14(l) requires a description of the actual capital and operating budget used or proposed to administer the State program. Budget data provided by Indiana are insufficient to allow a reasonable determination of the capability of Indiana to operate a permanent program.

30.7 30 CFR 731.14(m) requires a description of the existing and proposed physical resources for use in the program. The Indiana submission lacks physical resource information sufficient to allow evaluation of the State's preparedness in this area.

E. Disposition of Comments

The comments received on the Indiana program during the public comment periods described under "Background on Indiana Program Submission" raised several issues. The Secretary considered these comments in evaluating Indiana's program, as indicated below.

Department of the Interior

1. The Geological Survey (GS) (Administrative Record Number (ARN): IND–0077) commented that the State should briefly address State procedures for processing any proposed exploration, mining plans, or permits that include Federal lands. Jurisdiction for processing exploration and/or mining permits on Federal lands lies solely with the Secretary. A State may develop a cooperative agreement with the Secretary to administer and enforce the program on Federal lands. However, to date Indiana has not chosen to enter into such an agreement and therefore is not required to discuss Federal land impacts in its program.

2. The GS (ARN:IND–0077) recommended that the State be informed about the existing Bureau of Land Management/GS/OSM Memorandum of Understanding (MOU) on the management of Federal coal. A reference to the MOU in the State program was suggested as being needed to inform the general public and the State regulatory authority. There is no obligation for the State to do so, but a copy of the MOU has been sent to the State and may be referenced in its program if the State desires.

3. The National Park Service (NPS) (ARN: IND–0096) commented that it should be allowed to participate in permitting decisions in cases where NPS units may be affected. Indiana proposed regulation 761.12(d) provides joint approval of a mine permit by the Indiana Department of Natural Resources and the agency having jurisdiction over a park. This would seem to provide NPS with adequate involvement.

4. The NPS (ARN: IND–0096) also commented that it should have the authority to be involved in setting bond amounts for surface mining activities which may impact a NPS unit. The Indiana rules provide opportunity for interested entities, including NPS, to participate in decisions setting bond amounts in the context of permit application review. See Indiana proposed § 787.11.

5. The NPS (ARN: IND–0096) requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in protecting all resources on lands under its jurisdiction from mining in adjacent areas. Indiana's proposed regulation 762.11, identifying the criteria for designating lands as unsuitable, appears consistent with 30 CFR 762.11 and the Secretary cannot require the State to adopt additional criteria. The petition process included in Indiana's proposed regulation 764.13 provides the opportunity for any person having an interest that is or may be adversely affected to petition to have an area designated as unsuitable for mining. This approach appears to provide the NPS with the opportunity it seeks to protect lands in the National Park System.

The Secretary has instructed the Park Service not to seek criteria in State programs which would establish "buffer zones" adjacent to National Parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for Federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other Federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that agency's approach to State unsuitability criteria will be compatible with the Secretary's policy on Federal unsuitability criteria.

6. The NPS (ARN: IND–0096) commented that it should be allowed to participate in inspections where a NPS unit may be affected, especially inspections in response to a petition or notification of violation or for bond release. Indiana statute IC 13–4.1–1–11–2(b) provides that if an inspection results from information from any person, that person may accompany the director on the inspection. The NPS can avail itself of this opportunity. Also, 30 CFR 807.11(e) has been remanded with instruction from the Court to include a provision for citizen access to the mine site for bond release. Indiana is being informed of this requirement.

7. The Heritage Conservation and Recreation Service (HCRS) (ARN: IND–0095) commented that the Indiana Division of Outdoor Recreation should be consulted about potential impacts of mining on parks and recreation areas. The Secretary agrees that the information provided regarding coordination with other divisions and departments having duties in the State program appears to be insufficient. Indiana proposed rule 786.11(b) provides that written notifications of permit applications be provided to State agencies with jurisdiction over or an interest in the area of proposed operation; however, no additional information concerning the Indiana Division of Outdoor Recreation was provided.

8. The Fish and Wildlife Service (FWS) (ARN: IND–0066) commented that the regulatory authority must consult with the FWS regarding threatened and endangered species. Section 770.12(C) of the proposed Indiana rules incorporates the applicable provisions of the Endangered Species Act of 1973, as amended, and the Fish and Wildlife Coordination Act, as amended.

9. The FWS (ARN: IND–0066 and IND–0167) also commented that there was a need for a mechanism in the Indiana program to assure equal consideration for fish and wildlife resources. The Secretary agrees that the information provided regarding coordination with other divisions and departments having duties in the State program is insufficient to enable him to find such consideration is assured. (See finding 30.1)

10. The FWS (ARN: IND–0117) commented that the wildlife biologist with the Indiana Division of Reclamation should have specific training and knowledge relating to

threatened and endangered species. The Secretary has noted that the Division of Reclamation has not adequately demonstrated that it has sufficient technical personnel. However, the Federal rules do not require specific training or knowledge in this area. (See finding 30.3)

11. The FWS (ARN: IND–0117) commented that the criteria for designating lands as unsuitable in the Indiana program be augmented to include wording which would protect threatened and endangered species or their critical habitats. Section 762.11(b)(2) of the proposed Indiana regulations corresponds to 30 CFR 762.5 in that the term "fragile lands" includes such critical habitat (see § 701.10—Indiana definition of fragile lands).

12. The FWS (ARN: IND–0117) commented that the Indiana program should contain a process to determine how a mining or exploration operation may affect threatened or endangered species and designation of the authority to implement the process. Indiana proposed rule 786.19(o) specifies that the director of the regulatory authority will make this determination.

13. The FWS (ARN: IND–0117) commented that the Indiana program should specify that Indiana will provide copies of all its decisions on threatened and endangered species and notices concerning mining and exploration applications to the FWS Bloomington, Indiana Field Office. The proposed Indiana system narrative, § 731.14(g)(10), specifies that the FWS Bloomington Field Office will be consulted on review of permit applications. The Endangered Species Act, as amended, contains a requirement for State agencies to contact FWS regarding threatened and endangered species and Indiana proposed rule 770.12 incorporates the requirements of that Act. Also, Indiana proposed rule 786.11(b)(1) specifies that notices of permit applications will be sent to fish and wildlife agencies.

14. The FWS (ARN: IND–0117) commented that the Indiana program should contain a provision for Section 7 consultation with FWS. This requirement is contained in the Endangered Species Act, as amended, which Indiana has incorporated in proposed rule 770.12.

15. The FWS (ARN: IND–0117) expressed concern over the exemption from the regulation process of mines of less than two acres in size. This exemption is contained in Section 528 of SMCRA and 30 CFR 700.11 and States are not required to do more than the Federal act and rules require.

16. The FWS (ARN: IND–0167) commented that Indiana proposed rule 779.20 should have specific information items identified. 30 CFR 779.20 concerning fish and wildlife information is not presently required in the State program since it has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

17. The FWS (ARN: IND–0167) commented that Indiana proposed rule 780.16 should delineate specific requirements for the fish and wildlife plan. 30 CFR 780.16 concerning a fish and wildlife plan is not presently required in the State program since it has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

18. The FWS (ARN: IND–0167) commented that Indiana proposed rule 783.20 should have specific information items identified. 30 CFR 783.20 has been remanded by the Court and is not presently required in the State program. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

19. The FWS (ARN: IND–0167) commented that Indiana proposed rule 784.21 is ambiguous. 30 CFR 784.21 has been remanded by the Court and is not presently required in the State program. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141 February 26, 1980.)

20. The FWS (ARN: IND–0167) commented that the State regulatory authority must send the FWS a copy of its determination prepared under Section 786.19 related to threatened and endangered species. The State will provide such determinations to OSM and OSM will provide the determinations to FWS in accord with the Memorandum of Understanding.

21. The FWS (ARN: IND–0167) commented that a clear-cut, concise and consolidated discussion on interagency coordination is needed in the Indiana program. The Secretary agrees with this comment. (See finding 30.1)

22. The FWS (ARN: IND–0066) commented that a description of fish and wildlife habitat and species utilization should be included in Section 13–4.1–3–3(14) of the Indiana statute. Section 507(b)(14) of SMCRA contains no requirement for a description of fish and wildlife habitat and the States are not obligated to do more than the Federal act and rules require.

23. The FWS (ARN: IND–0066) commented that Section 13–4.1–3–4(a) should have a provision for each permit to include a fish and wildlife mitigation and/or enhancement plan. Section 508(a) of SMCRA has no such provision and the State is not obligated to do more than the Federal Act and rules require.

24. The FWS (ARN: IND–0066) commented that the term "fish and wildlife" be added to Section 13–4.1–11–5(b) of the Indiana statute after the word "air." Section 521(a)(2) of SMCRA does not contain the term "fish and wildlife"; therefore the State is not required to add the term.

25. The FWS (ARN: IND–0066) commented that the term "including fish and wildlife" be added after the word "environment" to Section 13–4.1–14–3(3) of the Indiana statute. Since Section 522(d)(iii) of SMCRA does not contain such a term, the State is not required to add the term.

26. The Bureau of Mines (BOM) (ARN: IND–0067) commented that several of the required sections of the Indiana program were omitted in the March 3, 1980, submittal. On June 16, 1980, Indiana submitted additions to the program narrative.

Department of Agriculture

27. The Soil Conservation Service (SCS) (ARN: IND–0070) commented that Indiana's submittal needs language for reclamation research and demonstration and proposes a new section to be added to 30 CFR Part 780. The Forest Service (FS) (ARN: IND–0057, IND–0068, IND–0144, and IND–0151) further commented that early release of performance bonds for research areas would encourage reclamation research. Neither of these provisions is authorized under the Federal rules. However, these issues are currently being considered by the Secretary in conjunction with the petition of the USDA, RECLAM Coordinating Committee (45 FR 41166–41169, June 18, 1980).

28. SCS (ARN: IND–0153) commented that Indiana's proposed rule 823.14(a) should be changed to require a minimum depth of reconstructed soil and soil material to 60 inches in lieu of the specified 48 inches. Four reprints were submitted as illustration that some of the more productive soils have a rooting depth of more than 48 inches. Section 823.14(a) of the Indiana proposed rule is identical to 30 CFR 823.14(a). The State is not obligated to do more than the Federal rules require.

29. SCS (ARN: IND–0150) commented that the wording in §§ 779.2(a)(2) and 783.21(a)(2) of Indiana's proposed rules should be changed from "soil identification" to "soil identification legend." The term "soil identification" is used in the Federal rules and the State is not obligated to do more than the Federal rules require. The Secretary notes that 30 CFR 779.21 and 783.21 have

been remanded to the extent that soil survey information is required for more than those lands which a reconnaissance inspection suggests may be prime farmland.

30. SCS (ARN: IND–0150) commented that Section 785.17(c)(3) of Indiana's proposed rules should be expanded to provide that moist bulk density be shown for each soil horizon for each soil and submitted suggested wording. The moist bulk density standard for soil compaction in 30 CFR 785.17(b)(3) was suspended to allow further public comment on December 31, 1979 (44 FR 77455). Until a standard is proposed and adopted, the permanent program prime farmland standards will be implemented by requiring that prime farmland permit applications demonstrate and operators mine so that excessive compaction is avoided.

31. SCS (ARN: IND–0150) commented that § 785.17(c)(9) should be reworded to include "equivalent or higher levels of yield" in lieu of "equivalent levels of yield"; to apply to "soil map unit" in lieu of "soil type"; to relate to "equivalent levels of management" in lieu of "equivalent management practices"; and to change the reference to the Indiana proposed rules from § 785.17(b)(1) to §§ 785/17(c)(1) and 785.17(c)(8). The Indiana proposed rule 785.17(c((9) is identical to 30 CFR 785.17(b)(9) and the State is not obligated to do more than the Federal rules require.

32. SCS (ARN: IND–0150) commented that Indian proposed rules 816.22(d) and 817.22(a) be expanded to include a suggested example. Further, SCS commented that §§ 816.22(e)(1)(i) and 817.22(e)(1)(i) be amended to include organic matter content among the specified chemical and physical analyses of overburden and topsoil. These sections of the Indiana proposed rules are identical to 30 CFR 816.22(d) and 816.22(e)(1)(i) and a State is not obligated to do more than the Federal rules require.

33. SCS (ARN: IND–0150) commented that §§ 816.111(b)(4A) and 817.111(b)(4) of the INdiana proposed rules be amended to read "planting of row (intertilled) crops"in lieu of "planting of the crops." These sections of the Indiana proposed rules are identical to 30 CFR 816.111(b)(4) and 817.111(b)(4) and a State is not obligated to do more than the federal rules require.

34. SCS (ARN: IND–0150) suggested entirely new wording for § 823.14(c) of the Indiana proposed rules concerning excess compaction. This will not now be required, since 30 CFR 823.14(c) has been suspended, (44 FR 77455), to allow further public comment.

35. SCS (ARN: IND–0150) commented that Indiana proposed rule 823.15(b) should have the phrase "but not to exceed 10 years" added to the end of the first sentence. The SCS also commented that the commonly grown crops specified be limited to corn, soybeans or other crops commonly grown on surrounding prime farmland. Also, the sentence concerning approval of the use of perennial plants for hay would be deleted. 30 CFR 823.15(b) has been remanded and this information cannot be required at present. (*In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1141, February 26, 1980

36. SCS (ARN: IND–0070) commented that prime farmland soils in Indiana should be reconstructed to a depth of five feet, that crops grown to demonstrate productivity be limited to corn and soybeans and that physical and chemical properties of reconstructed prime farmland soils should be addressed in the Indiana program. The relevant prime farmland provisions of the Federal rules have been incorporated into the Indiana program, and a State is not obligated to do more than the Federal rules require.

37. SCS (ARN: IND–0070) commented that conservation systems may be needed on the slopes in row crop (tillable) land to eliminate excessive erosion. Since neither SMCRA nor Federal rules specify the use of conservation systems on tillable land, a State is not required to specify the use of these systems.

38. The Forest Service (FS) (ARN: IND–0057) suggested a Memorandum of Understanding (MOU) with the FS covering mining on lands administered by the FS where mineral rights are outstanding. A MOU is being formulated between OSM and the FS at the present time. Since Indiana has not requested a cooperative agreement with the Department of the Interior to regulate on Federal land, a MOU between Indiana and the FS is not necessary at this time.

39. FS (ARN: IND–0068) suggested that a MOU be established between the Indiana Division of reclamation and the Indiana Division of Forestry to grow seedlings for reclamation and to provide technical expertise on species selection, timber utilization on mining sites, and the preservation of unique forest stands. Since both divisions are part of the Indiana DNR, a MOU appears to be unnecessary. The suggested arrangement could be worked out within the DNR. The Forest Services's suggestion has been sent to the State.

40. FS (ARN: IND–0068) expressed concern that the State's program adequately address the need to maintain the forestry "base" in Indiana. This comment has been forwarded to the Indiana Division of Reclamation.

41. FS (ARN: IND–0057and IND–0068) commented that the surface owner should be notified when application for release of bond occurs. It also asked for provisions to be made to invite surface owners to field inspections for evaluating reclamation on the area proposed rule provides for notification for surface owners consistent with the Federal rule. However, the Indiana submittal contains no provisions for the surface owner to participate in the bond release inspection as required by 30 CFR 807.11(d).

42. The FS (ARN: IND–0068) commented that a recent aerial photo should be required to insure that the previous land use is documented in Sections 13–4.1–3–3(9) of the Indiana statute. Section 779.22, "Land Use Information," of the State proposed rules requires submission of an aerial photograph as part of application.

43. The FS (ARN: IND–0057) commented that the State Forester should be a designated member of the Natural Resources Advisory Council. The Secretary does not believe it is necessary to require such an arrangement to make the Indiana program fulfill the minimum requirements of SMORA and 30 CFR Chapter VII.

44. The FS (ARN: IND–0144 and IND–0151) commented that the phrase "surface water drainage ways" as used in Indiana's proposed rules, 816.117(a)(d) and 817.117(a)(3), could be misinterpreted and suggested changing the phrase to "surface water areas." The corresponding Federal rules, 30 CFR 816.117(a)(3) and 817.117(a)(3), also use the phrase "surface water drainage ways," and the Secretary believes that this phrase is acceptable.

45. The FS (ARN: IND–0144 and IND–0151) suggested that the sentence "Woody materials may be clipped and distributed over the surface as mulch," be added to Indiana rules 816.114 and 817.114. The corresponding sections of the Federal rules, 30 CFR 816.114 and 817.114, do not contain such a sentence and a State is not obligated to do more than the Federal rules require.

Department of Labor

46. The Mine Safety and Health Administration (MSHA) (ARN: IND–0158) commented that the Indiana proposed regulations do not contain many of the required references to MSHA regulations. The Secretary agrees with this comment.

47. MSHA (ARN: IND–0158) further commented that only a registered

engineer must be able to certify plans for structures under Indiana rules 780.25(a)(1)(i) and 784.16(a)(1)(i). The corresponding Federal rules, 30 CFR 780.25(a)(1)(i) and 784.16(a)(1)(i), allow a professional geologist also to certify such plans. The Indiana provision is the same as the Federal rule and thus is acceptable.

48. MSHA (ARN: IND–0158) also commented that only a registered engineer must be able to certify plans for structures under Indiana's proposed rules 780.25(a)(2)(i) and 784.16(a)(2)(i). The Secretary agrees with this comment.

49. MSHA (ARN: IND–0158) commented that Indiana's proposed rules 816.92 and 817.92 should require diversions to be designed to carry a peak runoff from a 100-year, 6-hour precipitation event. The corresponding Federal rules, 30 CFR 816.92 and 817.92, require diversions to be designed to a 100-year, 24-hour precipitation event. The Indiana rule is consistent with this requirement.

Environmental Protection Agency

50. The Environmental Protection Agency (EPA) (ARN: IND–0097) commented that the Indiana program does not adequately address air resources protection. 30 CFR 816.95 and 817.95 concerning air resources protection have been remanded and thus can not be required at present to the extent they apply to pollution caused by erosion. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, May 16, 1980.) Indiana statute (IC 13–4.1–3–4(a)(11)) requires that each reclamation plan include the steps to be taken to comply with the applicable air quality laws and rules. Also 30 CFR 780.15 and 784.26 require an air pollution control plan. Because Indiana does not require such a plan, the proposed Indiana rules are inconsistent with these Federal rules.

51. EPA (ARN: IND–0047 and IND–0097) commented that several sections of the Indiana program submitted on March 3, 1980, were incomplete. In particular, State regulations and an Attorney General's opinion were missing. On June 4 and 16, 1980, Indiana submitted additions to its program including proposed rules (ARN: IND–0114) and an opinion from the Attorney General's office (ARN: IND–0115). The Secretary notes that the opinion does not appear to contain a complete section-by-section comparison of the Indiana Act and proposed rules and the Federal Act and rules and does not contain any explanation of the differences.

52. The EPA (ARN: IND–0047) commented that Indiana has not demonstrated that it has personnel qualified to deal with toxic materials and other pollutants as required in the Federal regulations. The Secretary agrees that the Indiana submission does not describe sufficently the adequacy of technical staffing. (See findings 30.4 and 30.5)

53. EPA (ARN: IND–0047) further commented that more specific information regarding the projected number of permits, inspections and legal actions is needed to determine whether staffing is adequate. The Secretary agrees that the information submitted in response to 30 CFR 731.14(j) was insufficient to demonstrate the adequacy of staffing. (See finding 30.4)

54. EPA (ARN: IND–0047) also commented that there is no discussion or description of laboratory space in Section 731.14(m) of the Indiana submittal. The Secretary agrees that the information submitted in response to 30 CFR 731.14(m) regarding physical resources was insufficient to allow evaluation. (See finding 30.7)

55. The EPA (ARN: IND–0097) commented that the information provided in response to 30 CFR 731.14(f), supporting agreements between agencies, was inadequate. The Secretary agrees that the information submitted for this section was inadequate. (See finding 30.2)

56. EPA (ARN: IND–0097) commented that the information submitted by Indiana in response to 30 CFR 731.14(g)(9), coordinating issuance of permits, did not describe how permits will be coordinated with EPA and local agencies. The Secretary agrees that more information is needed in this section.

Other Public Comments

57. Save Our Irreplaceable Land (SOIL) (ARN: IND–0085) expressed concern that IC 13–4.1–8–2, 3 and 4 of the Indiana statute do not meet the requirements of SMCRA for return to approximate original contour. These sections of the Indiana statute appear to be substantially the same as the corresponding Sections 515(c), (d) and (e) in SMCRA, and the Secretary has found these Indiana sections to be acceptable.

58. SOIL (ARN: IND–0085) was concerned that the Indiana Department of Natural Resources had not established a "planning process" for making "objective decisions" for designating lands unsuitable for mining as identified in Section 522(a)(1) of SMCRA. The Secretary agrees that the State's planning process in this regard needs further definition. (See finding 21.1)

59. SOIL commented (ARN: IND–0085) that the Indiana statute does not adequately cover requirements in Section 517(h) of SMCRA concerning informal review. The Indiana statute does not contain a section corresponding to 517(h) of SMCRA. (See finding 17.10)

60. SOIL commented (ARN: IND–0085) that the Indiana statute does not adequately cover requirements set out in Section 521(a)(1) of SMCRA concerning citizens accompanying inspectors on inspections. In particular, SOIL questioned whether a violation is a precondition for a citizen to accompany an inspector. The Indiana statute, IC 13–4.1–11–2(b), provides that if the inspection results from information provided by any person, that person may accompany the director on the inspection, whether or not a violation has occurred. This section appears to be acceptable except for the use of the word "director".

61. SOIL (ARN: IND–0156) commented that the Attorney General's opinion submitted by Indiana on June 16, 1980, does not constitute the required legal authorization. The Secretary agrees that the opinion appears not to contain a complete section-by-section comparison of the Indiana Act and proposed rules and SMCRA and the Federal rules and does not contain any explanation of the differences. (See findings 29.3 and 29.4)

62. SOIL (ARN: IND–0156) commented that the Indiana staff is inadequate in resources and personnel. The Secretary agrees that the submitted material is inadequate to determine if sufficient personnel and resources are present. (See findings 30.4, 30.5, and 30.6)

63. SOIL (ARN: IND–0156) and the Ohio Township Homeowners Association (OTHA) (ARN: IND–0146) specify that it was their position that Indiana should not be granted primacy and that the Indiana program be disapproved. The Secretary is only partially approving Indiana's program at this time.

64. SOIL (ARN: IND–0132 and IND–0156) and OTHA (ARN: IND–0146) pointed out that Indiana's proposed rules have not been lawfully promulgated and therefore the Indiana submission is incomplete. The Secretary agrees that Indiana does not have fully enacted rules.

65. Two commenters (ARN: IND–0149), suggested that coal operators: (1) Should not be allowed to blast within ½ mile of dwellings; (2) should be required to post bond in the amount of value of buildings within one mile of operations; and (3) after a given period of time they should have to sell stripped and reclaimed land if they cannot show they intend to restrip in the future. These proposed requirements go beyond the scope of the Federal rules and the State is not obligated to do more than the Federal regulations require. It should be pointed out that 30 CFR 816.65, which

prohibits blasting within 1,000 feet of a building, has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, May 16, 1980.)

66. Several commenters (ARN: IND–0149, IND–0146, IND–0156, IND–0098, IND–0133, and IND–132) complained of blasting problems with surface coal operations. The sections on blasting in the Indiana statute appear to be consistent with SMCRA, while Indiana's proposed rules covering blasting appear to have certain inconsistencies with the Federal rules.

67. One commenter (ARN: IND–0132) suggested that Indiana limit blasting to eight hundred feet from a dwelling. 30 CFR 816.65 which prohibits blasting within 1,000 feet of a building has been remanded by the Court insofar as it restricts blasting at distances greater than 300 feet. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1142 May 16, 1980.) Indiana, therefore, is not required at present to restrict blasting at distances greater than 300 feet.

68. One commenter (ARN: IND–0132) suggested that mining a maximum of two acres without requiring a permit be increased to six or seven acres. This suggestion is contrary to Section 528(2) of SMCRA.

69. One commenter (ARN: IND–0132) commented that highwalls and final-cut lakes should not be allowed to be left after mining is completed. Both SMCRA and the Federal rules require that the highwall be eliminated. However, SMCRA and the Federal regulations do allow permanent water impoundments, but only under specific conditions. Indiana proposed rule 785.23 provides variances for water impoundments and box-cut spoil areas not provided for in the Federal rules.

70. The Mayor of Terre Haute, Indiana (ARN: IND–0147) and the Vigo County Board of Commissioners (ARN: IND–0152) commented that highwalls should be retained under certain circumstances and expressed support for Indiana Section 310 IAC 12–1–17(10) and 12–2–6(59). Both SMCRA and the Federal regulations require that the highwall be eliminated. Furthermore, the referenced Section could not be located in the Indiana program submittal.

71. The Izaak Walton League of America (ARN: IND–0159) commented that the Indiana program should provide for long term funding, staffing and cooperation with the Indiana Attorney General's Office. The Secretary agrees with this comment. (See findings 30.1 and 30.6)

72. The Izaak Walton League (ARN: IND–0159) commented that to the extent Senate Enrolled Act 98 supersedes IC 13–6–1–1, it must provide at least equivalent opportunities for citizen participation in enforcement proceedings. Since SMCRA sets the standard for citizen participation, the Secretary cannot require provisions other than those consistent with SMCRA and his rules. Certain aspects of public participation are inconsistent. (See finding 22)

73. The Izaak Walton League (ARN: IND–0159) expressed concern about assessment of costs of judicial proceedings in IC 13–4.1–11–9. This provision appears consistent with Section 525(e) of SMCRA in which the Secretary makes the determination, because the Indiana provision seems to limit the determination of costs to the Director.

74. The Izaak Walton League commented (ARN: IND–0159) that a description of existing wildlife habitat should be required in the permit application. The Federal provisions requiring a permit application to contain a study of fish and wildlife and a fish and wildlife reclamation plan (30 CFR 779.20, 780.16, 783.20 and 784.21) have been remanded by the court and such information cannot be required at present. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

75. The Izaak Walton League commented (ARN: IND–0159) that in disputes between parties involved in any mining or reclamation plan or permit that would impact upon the environment, the Secretary rather than the State should retain authority for ultimate approval. Section 503 of SMCRA provides that a State shall have primary jurisdiction if its program to regulate mining is approved. However, the Secretary retains enforcement power to ensure that the State program is properly carried out under Section 521 of SMCRA.

76. A member of the Indiana Division of the Izaak Walton League of America (ARN: IND–0133) commented that her organization would like OSM to retain an oversight role in the administration of the Indiana program, particularly if there were disputes concerning the final configuration of the land and in the reclamation program itself. Areas of concern mentioned by the commenter included conservation of fish and wildlife, pollution control, and the return of land to the best possible use. The OSM will maintain an oversight role in accordance with 30 CFR Part 733 to ensure enforcement of Federal and State laws and regulations when the State of Indiana obtains primacy over the regulation of surface coal mining.

77. The same member of the Indiana Division of the Izaak Walton League (ARN: IND–0133) suggested that a description of fish and wildlife habitat should be included in the permit application and that the reclamation plan, which is part of the permit application, should include possibilities for enhancing fish and wildlife habitat. The Federal provisions requiring a permit application to contain a study of fish and wildlife and a fish and wildlife reclamation plan (30 CFR 779.20, 780.16, 783.20, and 784.21) have been remanded by the court and such information cannot be required at this point. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

78. The same member of the Indiana Division of the Izaak Walton League (ARN: IND–0133) stated that agreement on reclamation plans should be reached by the Indiana Division of Reclamation, the Indiana Division of Fish and Wildlife, the Office of Surface Mining, the U.S. Fish and Wildlife Service and the applicant. OSM should have final approval in cases where the plan is disputed. The Federal rule, 30 CFR 786.11(c), and State proposed rule 786.11(b), only require permit approval by the State regulatory authority, which is the Indiana Division of Reclamation except in special cases. However, the Indiana proposed rules do provide for notification of permit applications to the mentioned agencies.

79. A commenter (ARN: IND–0133) suggested that logs and drill records are privileged information which should be kept confidential and not a matter of record for OSM or the Department of Natural Resources. It is assumed that the commenter is referring to Indiana proposed rule 779.14(b) which requires that each suface mining permit application contain a statement of result of test borings or core samplings from the permit area. 30 CFR 786.15(a)(1) requires that information on test borings and core samplings included in permit applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected by the proposed surface mine. Indiana proposed rule 786.15(a) also requires that such information be made publicly available and any departure from this requirement would be inconsistent with the Federal rule.

80. A commenter (ARN: IND–0133) opposed § 776.11(b) of Indiana's proposed rules which requires persons who intend to conduct coal exploration by core drilling to file with the Director a written notice of intention to explore prior to conducting it. 30 CFR 776.11 requires that a written notice of intention to explore be filed with the State regulatory authority. Indiana's proposed rule 776.11(b) on coal exploration is consistent with the

corresponding Federal rule.

81. Two commenters (ARN: IND–0133 and ARN: IND–0148) objected to the prepayment of penalties for violations of surface mining regulations contained in Indiana proposed rule 895.15(e) and (f). These proposed rules are consistent with the corresponding Federal rules and SMCRA.

82. A commenter (ARN: IND–0133) objected to the whole concept of the OSM program because he believed the State of Indiana already had a good, workable program. The Office of Surface Mining was established under Pub. L. 95–87 to administer programs to regulate surface coal mining operations which are required by SMCRA and to assist the States in the development of State programs by which they could achieve primacy under SMCRA. When the State of Indiana enacts a program, including a surface mining law and regulations, which are consistent with and no less stringent than the Federal Act and rules, it will assume primacy for the regulation of surface coal mining in the State.

83. Snell Environmental Group (ARN: IND–0157) expressed support for Indiana proposed rules 785.23, 816.107, 817.107, 785.17, and 762.13 and provided a copy of "A Study of Ultimate Postmining Land Uses on Prime Agricultural Lands in S.W. Indiana." All of these rules provide variances not provided in the corresponding Federal rules and Indiana has not identified any of these sections as "State Windows."

84. The Environmental Policy Institute (ARN: IND–0166) suggested that the last sentence of IC–13–4.1–3–1 be amended to read " * * * without first holding a valid surface coal mining and reclamation permit issued in accordance with this Act and regulations" to ensure that operators who plan to mine after eight months of an approved State program file an application that complies with the permanent program. This provision is comparable to Section 502(d) of SMCRA. Section 5 of Senate Enrolled Act No. 98 of the Indiana statute provides that permittees who expect to continue coal operations eight months after the date of the State program approval shall apply for a permit not later than two months after program approval. This provision corresponds to Section 502(d) of SMCRA.

85. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana provision IC 13–4.1–5–1, –2 which compares to 506(b) of SMCRA improperly extends the life of a permit beyond five years. The Secretary agrees. (See finding 14.2)

86. The Environmental Policy Institute (ARN: IND–0166) commented that the Indiana statute contains no provision corresponding to Section 517(b)(2) of SMCRA concerning monitoring of the hydrologic balance in the permit area. The Secretary agrees with this comment. (See finding 17.3)

87. The Environmental Policy Institute (ARN: IND–0166) commented that the Indiana statute at IC 13–4.1–4–3(c) allows the State discretion to deny a permit upon finding a demonstrated pattern of willful violations. Since the State has discretion in making a finding concerning a pattern of willful violations under Section 510(c) of SMCRA, the Indiana language "the commission may not issue a permit * * * if they find" appears to be equivalent to the Federal language "no permit shall be issued * * * after a finding."

88. The Environmental Polciy Institute (ARN: IND–0166) commented that the language "Article 13 of the Indiana Code" (IC–13.4.1–3–3(a)(20)) is not equivalent to "The Act" in Section 510(c). The word "Article" refers to Article 4.1 of the Indiana Code which contains the provisions comparable to SMCRA. However, because IC 13–4.1–4–3(a)(6) limits violations to be considered to those "pertaining to air or water environmental protection," the Indiana provision is inconsistent with Section 510(c) of SMCRA. (See finding 14.9)

89. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–4–3(d) concerning grandfathering of operations affecting prime farmlands is too broad. The corresponding Federal provision is Section 510(d)(2). Indiana was informed (ARN: IND–0065) that this provision is inconsistent with SMCRA. (See finding 14.10)

90. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana has no statutory provision comparable to 514(f) of SMCRA providing judicial review of regulatory authority decisions on permits. The Secretary agrees. (See finding 22.5)

91. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana provides that specification for soil removal, storage, replacement and reconstruction on prime farmland be established by the commission, IC 13–4.1–8–1(7), whereas Section 515(b)(7) of SMCRA requries specification be established by the U.S. Secretary of Agriculture. The Secretary agrees. (See finding 13.3)

92. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–11–3(a) and (4) is inconsistent with SMCRA because it does not require that inspectors will have the power to issue NOV's for all observed violations in the field. The Secretary agrees. (See finding 17.1)

93. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana allows a court to require bond if a temporary restraining order or preliminary injunction is sought in a civil action (IC 13–4.1–11–11(e)). This provision appears to be consistent with Section 520 of SMCRA.

94. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–11–5(a), 6(a) and 7(a) do not give inspectors field authority to issue notices of violation (NOV's). Further, suspension or revocation is not required "forthwith" where applicable as in Section 521 of SMCRA. The Secretary agrees concerning NOV's. The Secretary does not believe that the deletion of "forthwith" results in the Indiana statute being inconsistent with SMCRA. The Indiana statute (IC 13–4.1–11–6(a) requires the issuance of "show cause" orders and provides for the suspension or revocation of a permit. (See finding 17.1)

95. The Environmental Policy Institute (ARN: IND–0166) commented that no quantitative justification was provided by Indiana on the adequacy of its inspection staff. The Secretary agrees with this comment. (See finding 30).

96. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana did not have fully enacted regulations by the 104th day and that the Deputy Attorney General's opinion was submitted on the 104th day. The Secretary agrees.

97. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana provision IC 13–4.1–4–(A)(B)(1) extends confidentially beyond the provision of Section 508(a)(11) SMCRA. The Secretary agrees. (See finding 22.2)

98. The Environmental Policy Institute (ARN: IND–0161) commented that permits should not be issued where data are unavailable as provided by IC 13–4.1–3–3(a)(11). This provision appears inconsistent with the requirements of Section 507(b)(11) of SMCRA. (See finding 14.4)

99. The Environmental Policy Institute (ARN: IND–0161) commented that there is no Indiana provision equivalent to Section 514(f) of SMCRA concerning right to appeal. The Secretary agrees that the Indiana program does not have this provision. (See finding 22.5)

100. The Environmental Policy Institute (ARN: IND–0161) commented that the Indiana provision, IC 13–4.1–8–1(3), concerning backfilling to achieve approximate original contour, is inconsistent with Section 515(b)(3) of SMCRA. The Secretary agrees with this comment. (See finding 13.2)

101. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana has no provision comparable to Section 517(h) of SMCRA concerning the right of any person adversely affected by a surface coal mining operation to notify the regulatory

authority of any violation, and the right to review for a refusal to issue a citation. The Secretary agrees with this comment. (See finding 17.10)

102. The Environmental Policy Institute (ARN: IND–0161) commented that the Indiana provision, IC 13–4.1–12–1, concerning penalties is inconsistent with Section 518(a) of SMCRA. The Secretary agrees with this comment. (See finding 19.1)

103. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana has no procedure for public hearing prior to bond release. (See finding 18)

104. A commenter (ARN: IND–0132) suggested that the Indiana submission fully complies with the purpose of SMCRA as expressed in Section 102. The Secretary does not agree with this comment for all the reasons stated in Sections D and E of this notice.

105. Peabody Coal Company (ARN: IND–0132) commented that Indiana has made use of the "State Window" concept and that Peabody is in general agreement with the box cut and water impoundment "State Window." Indiana proposed rules 785.23, 816.107 and 817.107 provide for variances for water impoundments and box cut spoils not contained in the Federal rules. Indiana has not identified these as "State Windows" and has not submitted them in accordance with 30 CFR 731.13. (See also comment 107 below)

106. Old Ben Coal Company (ARN: IND–0148) stated that the Indiana program, with some modification, will protect the environment, public welfare and commerce as devised and mandated by Pub. L. 95–87 and that Indiana should be granted primacy. The Secretary agrees that modifications are necessary as set forth in the above Findings.

107. Old Ben Coal Company (ARN: IND–0148) expressed concurrence with Indiana proposed rules 785.23, 816.107 and 817.107 which provide variances for water impoundments and box cut spoil areas. There are no corresponding variances in the Federal rules and Indiana has not identified these proposed sections as "State Windows." The Indiana rules would appear to be inconsistent with the Federal regulations.

108. Old Ben Coal Company (ARN: IND–0148) expressed support for Indiana proposed rules 816.22(e) and 817.22(e) concerning topsoil removal and topsoil substitutes and supplements. These proposed rules appear to be inconsistent with the corresponding Federal rules. A detailed discussison of the Indiana proposed rules will be sent in a letter to the regulatory authority from the Director, OSM, and will be availble in the administrative record at the locations specified under "Addresses" above.

109. Old Ben Coal Co. (ARN: IND–0148) supported Indiana proposed rule 816.51 concerning protection of ground water. The commenter particularly recommended the added language, "For areas determined not to have significant ground water resources under § 779.15(b), the following shall not apply." The Indiana program provides no definition for "significant ground water resources" and this addition could result in a lesser degree of environmental protection than provided for in the Federal rules.

110. Old Ben Coal Co. (ARN: IND–0148) concurs with the modifications made to Indiana proposed rule 816.57(a) which adds the qualifier "any other stream with a watershed greater than five square miles" to a stream with a biological immunity. This modification would limit the protection afforded biological communities in those streams with a watershed of more than five square miles and would not be consistent with the Federal rules.

111. Old Ben Coal Co. (ARN: IND–0148) recommended that Indiana proposed rule 780.37 be revised to allow the operator to submit the detailed description of each road six months prior to construction. Indiana proposed rule 780.37 is consistent with the corresponding Federal rule and the proposed change would make in inconsistent.

112. Old Ben Coal Co. (ARN: IND–0148) recommended that Indiana proposed rules 816.81, 816.82, 816.83, 816.85, 817.81, 817.82, 817.83 and 817.85 be rewritten so as not to apply to all waste disposal areas including mine workings and excavations. These proposed rules are consistent with the corresponding section of the Federal rules except for the deletion of compaction standards from 816.85(c) and 817.85(c).

113. Old Ben Coal Company (ARN: IND–0148) expressed concern about the lack of flexibility in the uniform civil penalty amounts which could be assigned under Indiana proposed rule 845.13. The Company also felt that the economic effect on the company should be included as a consideration. Indiana's system appears consistent with SNCRA in that it considers that four section 518(a) criteria. Section 518(a) does not include economic effect as a consideration.

114. Old Ben Coal Company (ARN: IND–0148) commented that the proposed rules should be amended to enable the alleged violator to provide information prior to any penalty being assessed and that the State should provide an informal conference similar to OSM's conference. The Indiana System appears to provide procedures similar to those in SMCRA Section 518 (except as noted in the above Findings).

F. The Secretary's Decision

Approval in Part and Disapproval in Part

Pursuant to Section 503 of SMCRA and 30 CFR Part 732, the Secretary initially approves the Indiana proposed regulatory program in part and disapproves in part. The following sections of the Indiana Statute are approved:

IC 13–4.1–1–2
IC 13–4.1–1–3(2)
IC 13–4.1–1–3(3)
IC 13–4.1–1–3(4)
IC 13–4.1–1–3(5)
IC 13–4.1–1–3(6)
IC 13–4.1–1–3(7)
IC 13–4.1–1–3(8)
IC 13–4.1–1–3(9)
IC 13–4.1–1–3(10)
IC 13–4.1–1–3(11)
IC 13–4.1–1–3(12)(a)
IC 13–4.1–1–3(12)(b) with the understanding that the Secretary believes the meaning of "mining activities" is the same as the meaning of "such activities" in Section 701(28)(B) of the SMCRA.
IC 13–4.1–1–3(13)
IC 13–4.1–1–4
IC 13–4.1–1–5(g)
IC 13–4.1–1–6
IC 13–4.1–2–1
IC 13–4.1–2–2
IC 13–4.1–2–3
IC 13–4.1–2–4
IC 13–4.1–3–1
IC 13–4.1–3–2
IC 13–4.1–3–3(a)(1)
IC 13–4.1–3–3(a)(2)
IC 13–4.1–3–3(a)(4)
IC 13–4.1–3–3(a)(5)
IC 13–4.1–3–3(a)(7)
IC 13–4.1–3–3(a)(8)
IC 13–4.1–3–3(a)(9)
IC 13–4.1–3–3(a)(10)
IC 13–4.1–3–3(a)(12)
IC 13–4.1–3–3(a)(13)
IC 13–4.1–3–3(a)(14)
IC 13–4.1–3–3(a)(16)
IC 13–4.1–3–3(a)(17)
IC 13–4.1–3–3(a)(18)
IC 13–4.1–3–3(a)(19)
IC 13–4.1–3–3(a)(20)
IC 13–4.1–3–3(b)
IC 13–4.1–3–3(c)
IC 13–4.1–3–3(d)
IC 13–4.1–3–4(a)(2)(C)
IC 13–4.1–3–4(a)(3)
IC 13–4.1–3–4(a)(4)
IC 13–4.1–3–4(a)(5)
IC 13–4.1–3–4(a)(6)
IC 13–4.1–3–4(a)(8)
IC 13–4.1–3–4(a)(9)
IC 13–4.1–3–4(a)(10)
IC 13–4.1–3–4(a)(11)
IC 13–4.1–3–4(a)(12)
IC 13–4.1–3–4(a)(14)
IC 13–4.1–3–4(a)(15)
IC 13–4.1–3–4(a)(16)
IC 13–4.1–3–4(b)
IC 13–4.1–3–5
IC 13–4.1–2(b)
IC 13–4.1–4–3(a)(1)
IC 13–4.1–4–3(a)(2)
IC 13–4.1–4–3(a)(3)

IC 13-4.1-4-3(a)(4)
IC 13-4.1-4-3(a)(5)
IC 13-4.1-4-3(b)
IC 13-4.1-4-3(c)
IC 13-4.1-4-5(a)
IC 13-4.1-4-6
IC 13-4.1-5-2
IC 13-4.1-5-3
IC 13-4.1-5-5(a)
IC 13-4.1-5-6
IC 13-4.1-6-2
IC 13-4.1-6-3
IC 13-4.1-6-4
IC 13-4.1-6-5
IC 13-4.1-6-6
IC 13-4.1-6-8
IC 13-4.1-7-1
IC 13-4.1-7-2
IC 13-4.1-7-3(1)
IC 13-4.1-7-3(2)
IC 13-4.1-7-4
IC 13-4.1-8-1(1)
IC 13-4.1-8-1(2)
IC 13-4.1-8-1(4)
IC 13-4.1-8-1(5)
IC 13-4.1-8-1(6)
IC 13-4.1-8-1(8)
IC 13-4.1-8-1(9)
IC 13-4.1-8-1(10)
IC 13-4.1-8-1(11)
IC 13-4.1-8-1(12)
IC 13-4.1-8-1(14)
IC 13-4.1-8-1(15)
IC 13-4.1-8-1(16)
IC 13-4.1-8-1(17)
IC 13-4.1-8-1(18)
IC 13-4.1-8-1(19)
IC 13-4.1-8-1(20)
IC 13-4.1-8-1(21)
IC 13-4.1-8-1(22)
IC 13-4.1-8-1(23)
IC 13-4.1-8-1(24)
IC 13-4.1-8-1(25)
IC 13-4.1-8-1(26)
IC 13-4.1-8-2
IC 13-4.1-8-3
IC 13-4.1-8-4
IC 13-4.1-9-2
IC 13-4.1-9-3
IC 13-4.1-10-1
IC 13-4.1-10-2
IC 13-4.1-11-2(a)(c)
IC 13-4.1-11-8
IC 13-4.1-11-9
IC 13-4.1-11-10(2)-(6)
IC 13-4.1-14-1(b)
IC 13-4.1-14-3

Section 5 (Senate Enrolled Act No. 98)

The remainder of the program is disapproved for the reasons set forth in Findings 1-30. The entire set of regulations submitted in the program is disapproved because the regulations were not fully enacted on the 104*th* day following the program submission. The following provisions of the Indiana statute are disapproved for the reasons and to the extent set forth in the paragraphs identified following each provision's section number:

IC 13-4.1-1-3(1), finding paragraph 13.8
IC 13-4.1-1-5(b)(c), finding paragraph 29.1
IC 13-4.1-3-3(a)(3), finding paragraph 14.3
IC 13-4.1-3-3(a)(6), because it refers to Section IC 13-4.1-4-1, which is disapproved. See finding paragraph 22.4
IC 13-4.1-3-3(a)(11), finding paragraph 14.4
IC 13-4.1-3-3(a)(15), finding paragraph 14.11
IC 13-4.1-3-4(a)(1), finding paragraph 14.5
IC 13-4.1-3-4(a)(2)(A), finding paragraph 14.12
IC 13-4.1-3-4(a)(2)(B), finding paragraph 14.12
IC 13-4.1-3-4(a)(7), finding paragraph 14.6
IC 13-4.1-3-4(a)(13), finding paragraph 14.7
IC 13-4.1-4-1, finding paragraph 22.4
IC 13-4.1-4-2(a), finding paragraph 22.11
IC 13-4.1-4-3-(a)(6), finding paragraph 14.9
IC 13-4.1-4-3(d) finding paragraph 14.10
IC 13-4.1-4-4(a), (b), finding paragraph 22.11
IC 13-4.1-4-5(b), finding paragraph 22.5
IC 13-4.1-5-1, finding paragraph 14.2
IC 13-4.1-5-4, finding paragraph 22.1
IC 13-4.1-5-5(b), finding paragraph 22.3
IC 13-4.1-6-1, finding paragraph 14.8
IC 13-4.1-6-7, finding paragraphs 18.1 and 22.7
IC 13-4.1-7-1, finding paragraph 15.1
IC 13-4.1-7-3(3), finding paragraph 15.1
IC 13-4.1-8-1(3), finding paragraph 13.2
IC 13-4.1-8-1(7), finding paragraph 13.3
IC 13-4.1-8-1(13), finding paragraph 13.4
IC 13-4.1-9-1(5), finding paragraph 13.7
IC 13-4.1-11-1, finding paragraph 17.2
IC 13-4.1-11-1(b)(3), finding paragraph 17.4
IC 13-4.1-11-1(b)(1), finding paragraph 17.5
IC 13-4.1-11-2(b), finding paragraph 17.7
IC 13-4.1-11-3(a) finding paragraph 17.8
IC 13-4.1-11-3(b), finding paragraphs 17.9 and 22.6
IC 13-4.1-11-4, finding paragraphs 17.1 and 17.8
IC 13-4.1-11-5, finding paragraph 17-1
IC 13-4.1-11-5(a), finding paragraph 20.1
IC 13-4.1-11-6, finding paragraph 20.3
IC 13-4.1-11-7, finding paragraph 20.2
IC 13-4.1-11(10)(1), finding paragraph 19.6
IC 13-4.1-11-11, finding paragraph 22.9
IC 13-4.1-12-1, finding paragraphs 19.1, 19.3 and 19.5
IC 13-4.1-12-2, finding paragraph 19.2
IC 13-4.1-12-3, finding paragraph 26.1
IC 13-4.1-12-4, finding paragraph 19.4
IC 13-4.1-13, finding paragraph 27.1
IC 13-4.1-14-1(a), finding paragraph 21.3
IC 13-4.1-14.2, finding paragraphs 21.2 and 22.10
IC 13-4.1-14-4, finding paragraph 21.1
IC 13-4.1-14-5, finding paragraph 21.1

In addition, the Indiana statute is disapproved to the extent it does not contain provisions identified in the following paragraphs:

finding paragraph 14.1 (provisions concerning the necessity of a permit)
finding paragraph 17.1 (provisions concerning the power of inspectors to issue NOV'S and Cessation orders)
finding paragraph 17.2 (provisions concerning permittee requirements)
finding paragraph 22.5 (provisions concerning 30 day period for an aggrieved party to appeal)

Effects of This Action

Indiana is not now eligible to assume primary jurisdiction to implement the permanent program. Under normal circumstances, Indiana would be given sixty days from the date of this decision to submit additions or revisions to its proposed program to correct those parts of the program being disapproved.

However, on July 30, 1980, (ARN: IND-0169), the Indiana Department of Natural Resources delivered to OSM Region III a letter stating that "* * * the Indiana Department of Natural Resources was enjoined from submitting or resubmitting to the Department of the Interior or to the Director of the Office of Surface Mining, a state program for a period of one (1) year * * * Pursuant to § 730.13(b) * * * this letter serves notice to the Director, OSM of the issuance of such an injunction."

Because of the injunction, the Secretary must now determine whether Section 503(d) of the Act is relevant to establishing the timing of an opportunity for Indiana to resubmit its program. Section 503(d) reads as follows:

> (d) For the purpose of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a lost of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of sections 503 and 504 shall again be fully applicable.

The Secretary has determined that except in extraordinary circumstances, the running of the sixty-day period for resubmission is suspended by the issuance of an injunction against resubmission. Such suspension would continue until the injunction in question terminates, or for one year from the date the injunction is issued, whichever comes first. The legislative history of Section 503(d) indicates that its purpose is to avoid penalizing states which make good faith efforts to comply with the Act but are prevented by court action from achieving full compliance. Where, however, attendant circumstances reveal that an injunction has not been validly obtained or maintained, or that the State has failed to make a good faith effort to comply with the Act, Section 503(d) does not apply. Section 503(d) was not intended to allow a delay in the implementation of the permanent program where compliance with the Act is prevented through invalid or collusive litigation.

The Secretary has not determined, at this time, that Section 503(d) is

applicable in this instance, and by separate notice published today, has requested public comment on the issues bearing upon the applicability of Section 503(d). If, after review, the Secretary determines that Section 503(d) is inapplicable to Indiana under the circumstances, Indiana will have sixty days from the date of such determination within which to resubmit an acceptable state program. If it fails to do so, the Secretary will implement a Federal program for Indiana in accordance with Section 504 of the Act. Until a determination is made, the Secretary will presume that Section 503(d) applies, and thus will suspend the running of the resubmission period provided by Section 503(c).

Section 503(d) also says that a State which is subject to a valid injunction is required to regulate surface coal mining and reclamation operations pursuant to Section 502 of the Act (the interim program) until such time as the injunction terminates or until one year after the injunction is entered, whichever comes first. The Secretary construes Section 503(d) of the Act to authorize him to implement a Federal program if a State fails to implement Section 502 during the term of an injunction. Thus, while the Secretary fully endorses the intent of the Congress to have the States assume regulatory primacy under the Act, he also is required to implent a Federal program in cases where that becomes necessary because of a State's failure to carry out its responsibilities under Section 502.

Because of the above reasons, as well as to ensure that there is no delay in implementation of the permanent program should Indiana ultimately fail to obtain an approved program, the Secretary believes that he must now begin to prepare a Federal program for Indiana. Actual implementation of a Federal program for Indiana, of course, would depend upon the factors discussed above, and would not occur while Indiana still has a valid opportunity to receive State program approval upon resubmission, in accordance with the Act. Accordingly, in the spearate Notice of Intent published in the **Federal Register** on this date, the Secretary is also soliciting public comments on the preparation of a Federal program for Indiana.

In the meantime, the Secretary has instructed the Director of the Office of Surface Mining to make every effort during the period of the injuction (1) to work with the State towards correcting the remaining deficiencies in their proposed program to the extent the State can participate in such an effort, given the existence of the injunction; (2) to ensure that the Federal enforcement program under Section 502 is being diligently pursued in order to obtain compliance with the provisions of the Act and the interim program regulations; and (3) to ensure that Indiana is adequately carrying out its responsibilities under Section 502 of the Act.

This approval in part and disapproval in part applies only to the permanent regulatory program under Title V of SMCRA. This partial approval does not constitute approval or disapproval of any provisions related to the implementation of Title IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Indiana may submit a State AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

This decision has no effect on Federal or Indian lands in Indiana.

No rules will be promulgated in 30 CFR Part 914 until the Indiana program has been either approved, conditionally approved, or disapproved following opportunity for resubmission, unless the Secretary determines, in accordance with the conditions discussed above, that a Federal program should be implemented.

G. Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of Pub. L. 95–87, 30 U.S.C. 1292(d), no Environmental Impact Statement will be prepared on this disapproval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this disapproval.

Dated: November 18, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 80–36587 Filed 11–24–80; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 914

Surface Coal Mining and Reclamation and Enforcement Under Federal Program for Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent; Announcement of public comment period.

SUMMARY: Today the Secretary of the Interior has announced in a separate **Federal Register** notice his approval in part and disapproval in part of the State of Indiana's proposed State program for the regulation of surface coal mining and reclamation operations as amended on June 4, 1980, and June 16, 1980. Because the Office of Surface Mining Reclamation and Enforcement (OSM) was advised by the State of Indiana of the existence of an injunction issued on July 29, 1980 by the Circuit Court of Marion County, Indiana, enjoining the State from submitting or resubmitting a State program to the Department of the Interior for a period of one year, the Secretary of the Interior is initiating action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-Indian lands in Indiana. This program will not be implemented before July 29, 1981, so long as the injunction is in effect. Public comment is being sought on the preparation of a Federal program for Indiana. OSM is also seeking public comment on Indiana's actions under the interim program.

DATE: Public comments must be received by OSM by 5:00 p.m., on December 26, 1980.

ADDRESSES: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, OSM, State and Federal Programs, 1951 Constitution Avenue NW., U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–4225.

SUPPLEMENTARY INFORMATION: Under the Surface Mining Control and Reclamation Act of 1977, a State which seeks to regulate surface coal mining and reclamation operations within its border may apply to the Secretary of the Interior for approval of a State program. In order for a program to be approved, a State must develop a program which contains laws and regulations which are consistent with the Act and the regulations of the Secretary of the Interior. The Act says that once a State makes a program submission, the Secretary of the Interior has six months in which to consider the States application. At the end of that six-month period the Secretary has to decide whether to approve, conditionally approve, approve in part and disapprove in part, or disapprove the State program submission. If the Secretary only partially approves or fully disapproves the State program submission, the State, under normal conditions, has sixty days to resubmit its program. The statute gives the Secretary sixty days to consider the resubmitted program and to make a final decision. If after the end of this ten-month period, the Secretary is unable to approve or conditionally

approve the State program he is to put into place a Federal program. As announced in the accompanying **Federal Register** notice, the Secretary of the Interior has reviewed the State of Indiana's Initial Program Submission and has determined to partially approve and partially disapprove that program. Normally, the Secretary would give the State of Indiana sixty days during which the State could prepare revisions to its program and resubmit it to the Secretary.

In a letter dated July 29, 1980, Joseph D. Cloud, Director of the Department of Natural Resources of the State of Indiana informed the Office of Surface Mining that the Indiana Department of Natural Resources was enjoined on that date by the Circuit Court of Marion County Indiana from submitting or resubmitting to the Office of Surface Mining a State program for the regulation of surface coal mining and reclamation operations.

Section 503(d) of the Surface Mining Control and Reclamation Act provides:

> * * * [T]he inability of State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result * * * in the imposition of a Federal Program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted (emphasis added) by the State pursuant to Section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of Sections 503 and 504 shall again be fully applicable.

The Secretary has completed all the actions in the review of the Indiana State program that can be done without further participation by the State of Indiana. Because the Secretary of the Interior has received notification that the State of Indiana is enjoined from taking further action, as explained in the accompanying **Federal Register** notice, the Secretary is suspending the State program approval process for Indiana.

There are two basic effects of this suspension beyond the effect on Indiana's obligation to resubmit. First, the Secretary will continue to inspect all mines in Indiana at least twice a year and to enforce the interim program in that State. Second, Indiana will not be eligible to receive approval of a State Reclamation Plan for abandoned mine lands under Section 405(c) of the Act. 30 U.S.C. 1235(c), 30 CFR Part 884.

Another effect of this injunction, if it runs its full term, is to delay the permanent program in Indiana for a period of approximately eight to twelve months beyond that applicable to most other States in the country. In addition, if Indiana is ultimately unsuccessful in obtaining approval of its program the Secretary will then have to adopt a Federal program for that State. This will cause additional delay of six months or more.

To minimize the delay in the application of the Permanent Surface Coal Mining Reclamation Program in Indiana, and to prevent coal companies in surrounding States from being placed at a competitive disadvantage during the period they are forced to comply with the permanent program requirements while the interim program remains effective in Indiana, the Secretary has decided to begin preparation of a Federal program at this time. The Secretary will not actually implement this program until Indiana has been given sixty days to resubmit its program and the State program process has been completed.

The purpose of this notice is to seek public comment on preparing a Federal program in Indiana and to receive specific suggestions for how the Secretary of the Interior ought to adopt or modify the permanent program regulations to meet the local conditions in the State of Indiana. Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the topography soils, climate and biological, chemical, geological, hydrological, agronomic and other physical conditions of the State involved.

For important information, the reader is referred to "General Background on the Permanent Program" and "Criteria for Promulgating Federal Programs" previously published in 45 FR 32328 (May 16, 1980). This notice explains how the Secretary will consider unique conditions in Indiana, how existing State laws will be considered, and what standards will be used in adopting regulations. The reader should also refer to the Secretary's decision concerning the Indiana program published today in the **Federal Register.**

The Secretary has also begun an investigation into the compliance by the State of Indiana with Section 502 of the Surface Mining Control and Reclamation Act and the regulations issued by the Department of the Interior related to Section 502 (the initial program). Section 503 of the Surface Mining Act does give a State relief from submitting or resubmitting a State program if enjoined from doing so. The statute goes on to say, however, that as a condition for maintaining the injunction, a State must enforce the provisions of Section 502. After receipt of public comments and completion of this preliminary investigation, the Secretary will decide what further steps are necessary and should be taken. At that time, he may conclude that there is no basis for further investigation because the State of Indiana is adequately enforcing the requirements of Section 502 of the Act; alternatively, he may decide there is the need for a public hearing or additional public comment. If the Secretary ultimately determines there is a lack of compliance, he will recommence the State program review process after appropriate notice to Indiana.

Finally, the Secretary is also investigating the circumstances under which the injunction was entered and the competence of the court to hear the matter and expressly reserves the right to take appropriate action if he concludes that the circumstances surrounding the entry of the injunction warrant doing so. It is the Secretary of the Interior's view that the relief available under Section 503 is limited to those States who are seeking in good faith to pursue and adopt a permanent surface coal mining and reclamation program. Section 503 is not meant to be used as an artifice or device to avoid the requirements of the Surface Mining Act. The Secretary believes that Section 503 was intended to cover situations where all or part of a State program is invalidated as a result of deficiencies in the adoption of the laws or regulations. It is not a general authority to extend the statutory time frames. Comment is also requested on this issue.

This action of proposing the preparation of the contingency Federal program for Indiana is not significant under the criteria of Executive Order 12044 and 43 CFR Part 14 and does not require preparation of regulatory analysis, nor is this action a major Federal action significantly effecting the environment under the National Environmental Policy Act.

PUBLIC COMMENT PERIOD: The comment period announced in this notice will extend until December 26, 1980. All written comments must be received at the address given above by 5:00 p.m. on that date. Comments on the preparation of a Federal program received after that hour will not be considered in drafting the proposed Federal program; they will be considered to the extent applicable in subsequent actions under that program.

Dated: November 18, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 80-36588 Filed 11-24-80; 8:45 am]

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federal register

Tuesday
November 25, 1980

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Allocation System for the Distribution of Section 312 Funds for Fiscal Year 1981

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-80-1045]

Funding Allocation System for the Distribution of Section 312 Funds for Fiscal Year 1981

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

ACTION: Notice of Funding Allocation System.

SUMMARY: This Notice promulgates the funding allocation system for distributing Section 312 rehabilitation loan funds from the national level to Area Offices and also from Area Offices to localities for Fiscal Year 1981.

For Fiscal Year 1981, Section 312 funds will be assigned to Area Offices in the following two main categories:

1. General Use Funds—These funds are for the rehabilitation of single-family, urban homesteading (single-family), and nonresidential properties and for mixed-use properties having from one to four dwelling units. General Use funds can be used in any area eligible for Section 312 loans, including HUD-approved Section 810 Urban Homesteading areas.

2. Multifamily—These funds are for the repair of residential properties having five or more dwelling units and for mixed-use properties having five or more dwelling units. These funds are to be used in areas eligible for Section 312 loans that are also low-moderate income areas as defined in 24 CFR 570.302(d)(2)(i) and/or for projects in which a majority of the tenants will be low- and moderate-income persons (having an income at or below 95 percent of the median income for the area, adjusted for family size).

FOR FURTHER INFORMATION CONTACT: Craig S. Nickerson, Director, Rehabilitation Management Division, HUD/Community Planning and Development, 451 Seventh Street SW, Washington, D.C. 20410, Telephone: (202) 755-5970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

A national system for allocating Section 312 funds is used (1) to facilitate an equitable distribution of funds; (2) to provide a reasonable degree of certainty of funding levels in order to enable localities to more realistically plan and staff for rehabilitation; and (3) to provide incentives for efficient local Section 312 operations to meet national program goals.

A funding allocation system was first used in fiscal year 1979 and again in fiscal year 1980 to target Section 312 funds on the basis of community development and housing need, local priority for rehabilitation and capacity to use Section 312.

In fiscal year 1979 and fiscal year 1980 Section 312 funds were allocated in three categories: (1) General Use, (2) Multifamily, and (3) Urban Homesteading. General Use funds were provided for the rehabilitation of single-family properties, mixed-use properties having from one to four dwelling units after rehabilitation and nonresidential properties.

Multifamily loan funds were provided for the rehabilitation of residential or mixed-use properties having five or more dwelling units after rehabilitation.

Section 312 funds allocated for support of Section 810 Urban Homesteading Programs were provided for the rehabilitation of properties transferred under Section 810 for homesteading or for the repair of other single-family and/or nonresidential properties in the HUD approved homesteading area.

A. General Use Funds

In fiscal years 1979 and 1980, Section 312 General Use funds were allocated to Area Offices and in turn from Area Offices to localities by a formula with three equally weighted factors as follows:

1. Community Development and housing need as measured by the Community Development Block Grant (CDBG) formula for the most recent year.

2. Local priority for rehabilitation measured by the jurisdiction's share of CDBG funds allocated for housing rehabilitation, as indicated by the CDBG rehabilitation loan and grant budget item for the two most recent fiscal years.

3. Capacity to rehabilitate housing with Section 312 funds as measured by the amount of Section 312 General Use funds obligated in the two most recent fiscal years.

Generally, Area Offices were required to allocate at least 75 percent of their General Use funds to particular communities. For the most part, this meant that many localities received a "target" or specific set-aside of Section 312 funds for General Use. Area Offices selected localities that they believed should receive a "target" allocation of funds during the fiscal year. The "target" is the amount that a locality could reasonably expect to receive during the course of the year provided that the locality met quarterly goals of Section 312 fund use. Each locality receiving a formal "target" was also informed of a "ceiling," which was the maximum amount of Section 312 General Use funds that the locality could receive during the year. The ceiling was from 110 to 130 percent of the target amount. In FY 1980 if a CDBG entitlement locality's share based on this three-part formula was at least $120,000, then that locality was entitled to a target amount of Section 312 funds.

The formula described above gave each locality a base amount of funding for the year. In addition, in allocating funds for FY 1980, adjustments were made in individual locality allocations based on performance in such areas as reducing delinquencies, adhering to the program objective of giving priority for loans to low- and moderate-income persons, and implementing an efficient local rehabilitation management operation. Allocations were also adjusted based on whether the locality qualified as distressed under the Urban Development Action Grant (UDAG) criteria.

CDBG entitlement localities that would have received less than the minimum amount of $120,000 could not receive a target amount of Section 312 funds but could participate in the remaining 25 percent of the Area Office's allocation. The remaining 25 percent is referred to as the discretionary amount. Any locality that did not receive a target amount of funds could participate on a first-come, first-served basis from the discretionary amount. However, for ease of fund management and to provide indications of funds available to non-targeted localities, some Area Offices targeted their discretionary funds by providing informal allocations to those localities.

B. Section 312 Funds for Urban Homesteading

For the last two years a separate allocation of Section 312 single-family funds was provided for Section 810 Urban Homesteading Programs. Allocations to Area Offices were based on the number of existing programs within their jurisdictions and on the anticipated need of new cities expected to participate in the homesteading program.

C. Multifamily Loan Funds

In FY 1980, the allocations of multifamily loan funds from the HUD Central Office to Area Offices were made on the basis of the same three part formula used for allocating General Use funds. Hower, Area Offices did not

formally target funds to localities and thus adjustment factors were not used.

FY 1981 Funding Allocation System

A. General Use Funds

Allocations to Area Offices

During FY 1981 the procedures used to allocate funds for General Use will be essentially the same as in FY 1979 and FY 1980. However, in FY 1981 in conjunction with the Department's policy to provide assistance where it is most needed, more emphasis will be placed on providing funds to distressed localities. Therefore, HUD has revised the first factor of the formula for allocating Section 312 funds to reflect economic and physical distress more directly. While the first factor of the formula which measures need is still based on the CDBG allocation, instead of using the overall CDBG allocation which was used for the last two years, for FY 1981 only the second CDBG formula (Formula B) will be used. The Formula B allocation is based on the age of housing (50 percent weight), poverty (30 percent weight), and population growth lag (20 percent weight) (See Section 106(b)(1)(B) and (b)(2)(B) of the Housing and Community Development Act of 1974, as amended).

The other two factors, representing priority for rehabilitation and capacity to use Section 312 funds, remain the same as for the two prior fiscal years with a slight modification in the capacity factor as described below.

In summary, the allocation of General Use funds to Area Offices for FY 1981 is based on the following equally weighted factors:

1. The total FY 1980 CDBG Formula B amount for metro cities, urban counties and small cities' balances in an Area Office jurisdiction as a percentage of the total CDBG Formula B amount for all Area Offices in the nation.

2. Local priority for rehabilitation as measured by the Area Office jurisdiction's percentage of the national total of CDBG funds allocated for rehabilitation of private properties, as indicated in the CDBG rehabilitation loan and grant budget item for the two most recent fiscal years.

3. Capacity to rehabilitate housing with Section 312 funds as measured by the Area Office's percentage of the total national amount of the Section 312 funds obligated for General Use and Urban Homesteading in both FY 1979 and FY 1980.

The Central Office reserves the right to make adjustments in Area Office allocations based on the performance of Area Offices in meeting program priority objectives, including findings made in monitoring reviews.

Allocation of Funds by Area Offices to Localities

Area Offices shall use the same three-part formula—based on housing and community development need, priority for rehabilitation and capacity to use Section 312—for allocating Section 312 funds to localities.

As in FY 1979 and FY 1980, the majority of General use funds shall be assigned through a system of targets and ceilings. Each Area Office shall assign at least 75 percent of its General Use funds to entitlement and small city comprehensive grantee localities that receive target allocations, unless the Area Office receives specific permission from Headquarters to assign a lower proportion.

To give priority for funding to distressed localities, each Area Office is directed to establish a goal that at least 75 percent of the Section 312 General Use funds obligated during FY 1981 in each Area Office will be obligated in distressed localities. Distressed localities are those which qualify as distressed under the Urban Development Action Grant Program (UDAG), pursuant to 24 CFR Part 570, Subpart G. The goal for each office will be 75 percent of General Use funds available (including those for urban homesteading properties) unless a lower goal is specifically approved by the Central Office because of a low incidence of distressed localities in the Area Office's jurisdiction. Area Office performance in meeting the goal will be monitored by the Central Office.

In developing the "target" figures for localities, very low targets are discouraged. Area Offices have flexibility to respond to the needs of small users through the discretionary fund. We have, therefore, established a minimum target of $120,000, for both entitlement cities and for small cities with comprehensive programs. Area Offices may want to use an even higher minimum figure based upon their assessment of local conditions.

It should be emphasized that targets and ceilings are not legally binding commitments of Section 312 funds from HUD to localities, nor are they HUD reservations of Section 312 funds. Target amounts may be reduced during the fiscal year if localities are not meeting quarterly fund use goals or if less money is appropriated than originally anticipated. However, ceiling amounts established at the beginning of the year will not be changed and localities will not be permitted to exceed ceilings.

Area Offices may establish informal targets for cities receiving allocations out of the Area Office discretionary fund. Such informal targets will be managed by Area Offices and need not conform strictly to the target/ceiling system established.

Should the combination of minimum targets of $120,000 for entitlement cities and small cities receiving comprehensive grants and the requirement that at least 75 percent of funds be allocated by targets result in an unfair allocation of too much funding to only a few cities, Area Offices may request permission from the Central Office to use a higher percentage for the discretionary fund than the 25 percent maximum set in this Notice.

In each Area Office in FY 1981, targets and ceilings shall be established for two classifications of localities. First, an amount will be established for selected CDBG entitlement cities. Second, there will be an amount established for selected small city comprehensive programs. Area Offices should attempt to provide as many localities as is reasonable with targets (without setting them below the aforementioned $120,000 level).

All other localities will receive Section 312 funds from the discretionary fund. Because of the high administrative costs associated with the program and the limited funds available, Area Offices, as a rule, should not make Section 312 funds available to communities which will have fewer than five Section 312 loans approved during the year or which will obligate less than $50,000 in Section 312 funds during the year.

Since there will not be a separate allocation of Section 312 funds to Area Offices for support of Section 810 Urban Homesteading Programs as there was in FY 1979 and FY 1980, before dividing General Use allocations among entitlement cities, small city comprehensive grantees and discretionary cities, Area Offices should, in consultation with the Central Office, set aside a reasonable amount of funds for support of Urban Homesteading Programs, in the following manner.

After calculations are made to determine amounts of funding for target localities, Area Offices should then add funds from the Urban Homesteading set-aside to increase amounts for targeted localities if they have a Section 810 Urban Homesteading Program. Although the locality's projected timetable for and its past performance in utilizing Section 312 loans for homesteading properties should be considered, there is no specific formula for allocating Section

312 funds for an Urban Homesteading Program, and the supplement for homesteading is left to the judgment of the Area Office staff. In addition, there is no formal requirement that localities must use the supplemental allocation in Urban Homesteading areas. However, localities with HUD-approved Urban Homesteading Programs must assure that adequate rehabilitation funds (whether from Section 312 or other sources) will be available to support the homesteading program. Failure to carry out an effective homesteading program in one year would generally result in no additional funds being provided to a city in future years for homesteading.

The target amount for any city with an Urban Homesteading Program will include the additional amount for homesteading. As stated previously in this Notice, the General Use funds provided to a locality can be used for the rehabilitation of single-family properties (including urban homesteading properties) and for nonresidential properties and mixed-use properties having from one to four residential units, provided that such properties are in areas eligible for Section 312 loans. Loans for the rehabilitation of all these types of properties will count against a city's target and ceiling amounts of General Use funds.

Step-by-Step Procedures

After receiving its FY 1981 General Use allocation, each Area Office shall:

1. Determine in consultation with the Central Office the amount of the allocation to be set-aside for support of Urban Homesteading Programs if there are homesteading programs in the Area Office jurisdiction.

In determining a reasonable set-aside, Area Offices should consider the number of localities with existing HUD-approved Section 810 Urban Homesteading Programs, the amount of Section 312 funds obligated by those localities for urban homesteading loans in FY 1980, and those localities' projected timetables for making Section 312 loans in their urban homesteading applications. Funding for localities with new homesteading programs will be provided by the Central Office as needed subject to fund availability.

2. Determine the proportion of funds to be allocated to (a) targets for entitlement localities, (b) targets for localities with small city comprehensive grant programs, and (c) the discretionary fund for non-targeted localities.

No more than 25 percent may be left in the discretionary fund without Central Office approval.

3. For CDBG entitlement localities, each Area Office is to calculate the formula share for each city based on the three-part formula described below.

In order to determine the proper allocation of funds for each locality in accordance with the goals of this Notice (including the $120,000 minimum target amount, the urban homesteading set-aside and the 75 percent goal for distressed communities), Area Offices should work the formula with several different amounts of funds available for each of the three categories and varying selections of localities to receive target allocations. The formula share for each of the selected localities will be based on the following three-part formula:

a. Using the printout of the Entitlement Master List for FY 1980 (to be provided to each Area Office by the Central Office), each Area Office shall determine the FY 1980 amount of CDBG Formula B funds for each selected locality. By adding the total Formula B amounts for all the selected localities, and, using that amount as 100 percent, the Area Office shall determine each locality's percentage share of the total.

b. Using the printout of the CDBG Program Units of Government with Rehabilitation of Private Properties for FY 1978 and FY 1979 (to be provided separately by the Central Office), each Area Office shall follow a similar process to determine each locality's percentage share of CDBG funds programmed for rehabilitation (using the amounts for rehabilitation of private properties for FY 1978 and 1979 budget combined).

c. Using the amount of Section 312 funds obligated for General Use and Urban Homesteading (single-family program) by the community in FY 1979 and FY 1980, calculate the percentage share of funds used in FY 1979 and FY 1980 for each selected locality as a percent of all selected localities.

The three percentages for each selected locality should then be averaged to determine the locality's percentage share of the amount of funds allocated for entitlement cities. The formula share in dollars should then be determined for each selected locality.

4. Make Performance Adjustments of Target Allocations.

Upward and downward adjustments for the formula share are to be made based on Area Office review of relative local standing in meeting Section 312 program priority objectives. The total of upward adjustments must be offset by the total of downward adjustments so that there is no net change in the total amount available for entitlement localities. The performance adjustments provide the Department with a management tool to support localities that are performing well, including adherence to program priority objectives, and to penalize localities for poor performance. Adjustments in the level of funding for target localities should be significant enough to clearly indicate to participating localities the importance of adequately carrying out the above program priority objectives. The procedures and steps for adjustments are described below. Area Offices are required to make performance adjustments as part of their management of HUD sponsored, rehabilitation programs.

a. *Loan Delinquency.* An adjustment shall be made by Area Offices on the basis of delinquency rate information (to be provided by the Central Office), the willingness and ability of localities to assist the Department in resolving Section 312 loans that have become seriously delinquent and returned to the Department from the servicer for direct servicing and other relevant quantitative and qualitative information available to the Area Office.

b. *Priority for Low- and Moderate-Income Persons.* A similar dollar adjustment shall be made based upon statistical data (to be provided by the Central Office) and other relevant information available to the Area Office with respect to local adherence to the statutory priority for loans to low- and moderate-income owner-occupants. As with the performance adjustments for delinquency, adjustments in meeting the priority for low- and moderate-income owner-occupants should be based upon Area Office knowledge as to the soundness of the justification for the local strategy for providing Section 312 assistance. For example, if, in the opinion of the Area Office, the locality has thoughtfully established a rehabilitation assistance strategy which results in participation by a lower percentage of low- and moderate-income owners than the national average, a reduction may not necessarily be justified. Conversely, a locality which has an overall percentage which is good many have issued 10 percent of the loan funds to higher income persons without adequate justification and, hence, might deserve a reduction in Section 312 funding for the year. Localities will have funds added to or subtracted from formula shares based on compliance with this program objective.

c. *Quality and Efficiency of Local Rehabilitation Management.* On the basis of the best judgment of the Area Office, relying particularly on monitoring reviews of Section 312 *and*

CDBG rehabilitation activities. Area Offices shall make additional adjustments of the formula share based upon the relative quality and efficiency of local rehabilitation management. The factors to be taken into account should include: Quality of workmanship in rehabilitation, effective use of rehabilitation as a community development program element, efficiency in management and processing of rehabilitation activities and adherence to program requirements and procedures.

While it is not necessary that the total of the adjustments for each factor described above net to zero, the total of all adjustments for CDBG entitlement localities should net to zero.

5. Establish Ceilings.

As was also done in FY 1979 and FY 1980 for each entitlement locality, the Area Office shall determine a ceiling which will be the maximum amount of funds which the locality will be permitted to use should funds be available through reallocation from other localities, other Area Offices, or from discretionary funds. The ceiling will be between 110 percent and 130 percent of the target amount and will be based upon the Area Office's judgment of the ability of the locality to make effective use of Section 312 funds in FY 1981.

6. Determine Amount for Small City Comprehensive Grantees.

Because of the smaller amount of funding involved, the staggered approval of CDBG comprehensive small city grants and the variety of small cities programs, it is not possible to design a uniform, national system as explicitly as was done above for CDBG entitlement cities. Each Area Office must, therefore, design its own procedures, adhering as much as possible to the following characteristics:

a. Appropriate localities, selected by the Area Office, which are already receiving small city comprehensive grants will be provided their target and ceiling figures on the same timing schedule as for entitlement cities. That is, for FY 1981, each such city will be informed of its tentative annual target and ceiling prior to the beginning of the fiscal year.

b. Both capacity to use Section 312 funds and need for such funds shall be reflected in the funding decisions.

c. For localities continuing to receive small cities comprehensive grants, adjustments will be made for performance using the same program priority objectives identified above as adjustment criteria for CDBG entitlement cities.

d. No comprehensive program small city shall be given a target of less than $120,000 for the entire fiscal year.

e. The ceiling shall be between 110 percent and 130 percent of the target amount and will be based upon the Area Office's judgment of the locality's ability to make effective use of Section 312 funds in FY 1981.

Each locality receiving a target allocation shall develop a quarterly schedule of fund use with the concurrence of the Area Office. Each fund use schedule should normally provide for fund use spread evenly throughout the year. Plans which project disproportionate rates of obligations late in the fiscal year are generally unacceptable and should be discouraged by Area Offices.

Localities are hereby notified that funds may be reallocated at any time if, in the opinion of the Area Office, funds are not being committed in accordance with the previously agreed-upon schedule. Funds recaptured by reduction of target allocations may be used to increase the funds allocated to other localities up to the ceilings previously established for those localities. Funds that have been recaptured may also be used to increase the general discretionary funds available to the Area Office. Conversely, funds available for general discretionary use by the Area Office may also be used to increase local target allocations for either entitlement localities or small cities comprehensive program localities. Regional Offices will continue to have the authority to reallocate funds among Area Offices in their jurisdictions when the Area or Regional Office determines that funds are not being utilized by localities according to their quarterly use schedules. Furthermore, Headquarters reserves the authority to reassign such unutilized funds among Regional Offices as determined to be appropriate.

B. Section 312 Multifamily Loan Funds.

The allocation system described previously in this Notice for allocation of General Use funds does not include funds for rehabilitating multifamily properties. For assigning Section 312 funds to Area Offices for the rehabilitation of multifamily properties and mixed-use properties containing five or more residential units, the Department will generally use the same type of formula used to distribute General Use funds to Area Offices. However, the third factor of the formula—capacity to use Section 312 funds—would include only multifamily loan funds obligated in the last two fiscal years. Area Offices with localities participating in the multifamily homesteading demonstration will receive additional multifamily funds commensurate with projected demand.

The Department does not require Area Offices to provide allocations of multifamily loan funds to cities as it does for the General Use funds. Area Offices may: (1) choose to approve loans for multifamily projects based on an assessment of the merits of individual projects, rather than allocating funds to specific localities; (2) allocate a specific set-aside of multifamily loan funds to a few localities based on projects identified as in the pipeline; or (3) allocate a portion of funds to a few localities that the Area Office thinks should participate that have experience in multifamily processing, regardless of whether individual projects are in the pipeline.

(Sec. 312, United States Housing Act of 1964 (42 U.S.C 1452b), and sec. 7(d), Department of Housing and Urban Development Act (42 US.C. 3535(d))

Issued at Washington, D.C., November 18, 1980.

Robert C. Embry, Jr.

Assistant Secretary for Community Planning and Development.

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Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 144

[Docket No. R-80-873]

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed Rule.

SUMMARY: This proposed rule sets forth procedures and policies to assure nondiscrimination based on race, color, national origin or sex in programs and activities receiving assistance from the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974.

COMMENTS DUE DATE: Comments are invited from the public and other Federal agencies. They must be received on or before January 26, 1981, in the Office of the Rules Docket Clerk.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Director, Office of HUD Program Compliance, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 5230, Washington, D.C. 20410. (202) 755-5904.

SUPPLEMENTARY INFORMATION:

Background

The Housing and Community Development Act of 1974 was enacted in August 1974. Section 109 of that Act prohibits discrimination on the ground of race, color, national origin or sex in any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds.

The initial Department regulations under the CDBG program, issued on June 9, 1975, 40 FR 24693, contained a section on nondiscrimination (570.601) which repeated the language of Section 109 and listed a number of specific prohibitions, which were substantially similar to those in the Department's regulation under Title VI of the Civil Rights Act of 1964 (24 CFR Part 1, especially 24 CFR 1.4). The material in § 570.601 is being incorporated into this new proposed regulation issued by the Office of Fair Housing and Equal Opportunity. When this regulation is issued in final form, the Department will, by separate regulation, revise § 570.601 by replacing the current provisions with a brief summary of the requirements of this regulation and an appropriate cross-reference.

Following promulgation of HUD's final Section 109 regulation, the Department will issue a Section 109 Handbook.

Summary of the Proposed Rule

Subpart A of the Proposed Rule Sets Forth General Policies and Definitions for the Implementation of Section 109

Section 144.10 Purpose.

The purpose of this part is to implement the provisions of Section 109 of the Housing and Community Development Act of 1974, as amended.

Section 144.20 Definitions.

(a) General.—Except to the extent modified in this section, the Department proposes to utilize the definitions contained in Part 570 of this Title to apply to this part.

(b) Section 144.20(b)(1) revises the definition of "program or activity" now contained in 24 CFR 570.601.

This revision would clarify that (1) functions not funded under Title I are nevertheless covered by the nondiscrimination requirements of Section 109 if conducted by an administrative or organizational unit carrying out Title I-funded activities; (2) the term "program or activity" covers certain privately-financed UDAG activities; and (3) administrative services provided in support of a "program or activity" are covered by Section 109 requirements.

Example: A recipient's recreation department uses CDBG funds to repair a park. All programs of the recreation department would be subject to the nondiscrimination requirements of Section 109 and this part.

Example: A national hotel chain identified by a City and named in the City's application for UDAG funds is to carry out certain specified activities connected with a UDAG project. The hotel chain thus becomes a participating party in the UDAG project and, as such, is accountable to the recipient for carrying out the nondiscrimination requirements of Section 109 and this part.

Example: The Corporation Counsel's Office of a City reviews CDBG Contracts for legal sufficiency. No CDBG funds are budgeted for this activity. The Corporation Counsel's Office is subject to the nondiscrimination requirements of Section 109 and this part.

(c) Section 144.20(b)(2) "Funded in whole or in part with community development funds" means that community development funds in the form of grants, loans, loan subsidies, proceeds from HUD guaranteed loans or other income from Title I activities have been disbursed for a program or activity.

Section 144.30 Applicability.

Section 144.30 makes the rule applicable to any program or activity funded in whole or in part with funds under Title I of the Housing and Community Development Act of 1974, as amended, including Community Development Block Grants; Urban Development Action Grants, Secretary's Discretionary Fund Grants, Small Cities Program Grants, Financial Settlement Grants and Community Development Loan Guarantees.

Subpart B of the Proposed Rule Sets Forth Covered Conduct, Discrimination Prohibited and Specific Discriminatory Actions Prohibited.

Section 144.40 General.

As used in this subpart the term "recipient" includes a state or unit of general local government or any political subdivision or instrumentality thereof and any public or private agency, institution, organization or other entity or any individual to whom assistance is extended directly or through another recipient for any program or activity including any successor, assignee, or transferee thereof. Such term does not include any ultimate beneficiary under such program or activity.

Section 144.50 Discrimination prohibited—facilities, services, financial aid and other benefits.

Section 144.50(b)(1)–(4) lists specific discriminatory actions that are prohibited on the basis of race, color, national origin and sex. This section is similar to Section 1.4(b) of HUD's Title VI Regulation. Section 144.50(b)(5) discusses the limited circumstances in which CDBG funds may be used to provide facilities or services exclusively to members of one sex. The necessity to provide the services separately, and the availability of services to members of the other sex, if there is a need for such services, are the principal factors to be considered in justifying single sex services or facilities.

Section 144.50(c)(1) states that the recipient has an obligation to take reasonable action to remove or overcome the consequences of past discrimnatory practices or usage. Section 144.50(c)(2) provides that even in the absence of past discrimination a recipient should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. These sections are derived from §§ 1.4(b)(i) and (ii) of HUD's Title VI Regulations. Section 144.50(c)(3) provides that the recipient shall not be prohibited from taking any actions to ameliorate an imbalance where the purpose of such action is to overcome prior discriminatory practice or usage.

Section 144.60 Discrimination prohibited—employment.

Section 144.60(a) prohibits discrimination in employment on the basis of race, color, national origin or

sex in any program or activity funded in whole or in part with community development funds. Section 144.60(b)—In reviewing employment practices of CDBG recipients the Assistant Secretary for Fair Housing and Equal Opportunity shall be guided by the policies of the Equal Employment Opportunity Commission issued pursuant to EEOC's authority under Title VII of the Civil Rights Act of 1964.

Section 144.70 Contractual and regulatory requirements.

This section places an obligation on state or local government recipients to secure compliance with the requirements of this Subpart by other recipients with respect to whom they have a contractual relationship or regulatory control. Thus, for example, a local government executing a contract with a private developer in connection with a UDAG project would be obligated to include provisions in the contract requiring compliance by the developer with Subpart B's prohibitions and requirements. Failure of the local government to impose or secure compliance with these requirements would constitute a violation of Section 109 by the local government. In this manner, compliance with Section 109 by private entitles not subject to Section 109 sanctions may be effected.

Section 144.100 Compliance data and reports.

Section 144.100(a)–(d) requires that government recipients maintain, report and provide access to demographic, racial, ethnic and gender data pursuant to § 570.907(f) of this title. Participating parties in the UDAG program must, on request of the recipient, collect data reflecting who benefits from Title I assistance and report such data on request.

Section 144.110 Complaints and investigation.

Section 144.110 provides that a person may file a written complaint within 180 days of the alleged discrimination, and that the Assistant Secretary for Fair Housing and Equal Opportunity shall conduct a prompt investigation of complaints.

The language in this Section was taken directly from Sections 1.7(b) and (c) of HUD's Title VI Regulations.

Section 144.120 Compliance reviews.

Section 144.120 requires the Secretary from time to time to review the practices of the recipient to determine whether they are complying with this part. The language in this Section was taken directly from Section 1.7(a) of HUD's Title VI Regulations.

Section 144.130 Intimidatory or retaliatory acts.

Section 144.130 prohibits the recipient or any representative thereof from taking any intimidatory or retaliatory action against any complainant or any person that has testified, assisted or participated in any manner in an investigation, proceeding or hearing under this part. Section 144.130 also requires that the name of a complainant shall be kept confidential, except to the extent necessary to carry out the purpose of this Part. Language in this section was derived from Section 1.7(e) of HUD's Title VI Regulation.

Section 144.135 Disclosure of compliance data and findings.

Section 144.135 prohibits the disclosure by a HUD officer or employee of any data or findings gathered in the course of an investigation or compliance review, prior to notification of the recipient pursuant to § 144.145.

Section 144.140 Definition of recipient.

For purposes of formal enforcement proceedings under Section 109, only government recipients of Title I assistance may be charged with violations and subject to sanctions.

Subpart C of the Proposed Rule Sets Forth Compliance and Enforcement Procedures

Section 144.145 Notification of findings.

Section 144.145(a)–(b) requires that in the event of a finding of apparent noncompliance the Assistant Secretary for Fair Housing and Equal Opportunity shall notify the Governor or chief executive officer of the finding of apparent noncompliance and request the Governor or chief executive officer to secure compliance. If no action is warranted the Assistant Secretary for Fair Housing and Equal Opportunity will so inform the recipient and the complainant, if any, in writing.

Section 144.150 Response to notification.

Section 144.150(a)–(d) delineates the options to a recipient following receipt of a notice of apparent noncompliance. Those options are (1) to show that the Department's findings are incorrect or incomplete; (2) to show a valid reason for the apparent noncompliance which is not related to race, color, national origin or sex; (3) to take immediate corrective action or; (4) to submit a written voluntary compliance plan acceptable to HUD.

Section 144.155 Evaluation of recipient's response.

Section 144.155 requires the Assistant Secretary for Fair Housing and Equal Opportunity to evaluate the sufficiency of the recipient's response and determine whether further action is warranted by the recipient.

Section 144.160 Compliance agreement.

Section 144.160 (a)–(e) contains the appropriate provisions to be included in a compliance agreement submitted by a recipient designed to remedy a finding of apparent noncompliance with this part.

Section 144.170 Procedure for effecting compliance.

Section 144.170 prescribes the time limit which a recipient has to comply with this part and the remedies available to the Assistant Secretary with the concurrence of the Secretary, in the event the recipient does not comply with this part.

Section 144.180 Sanctions for noncompliance.

If compliance with this Part is not achieved, Section 144.180 provides for the Assistant Secretary for Fair Housing and Equal Opportunity, with the approval of the Secretary, to provide for a hearing, which may result in:

(1) Termination, suspension, or refusal to grant payments to the recipient;

(2) Reduction of payments to the recipient; or

(3) Limiting the availability of payments to programs, projects, or activities not affected by such failure to comply.

Section 144.190 Agreements between agencies.

Section 144.190 (a) and (b) directs the Assistant Secretary for Fair Housing and Equal Opportunity to endeavor to enter into cooperative agreements with officials of other Federal Departments and agencies to effectuate the purpose of this part and suggests the contents of those agreements.

Section 144.200 Effect on other regulations.

Section 144.200(a) and (b) provides that no person shall be relieved of any obligation pursuant to HUD regulations prior to the effective date of this Regulation and no recipient shall be relieved of any responsibility to comply with the provisions of Departmental regulations applicable to assistance received under Title I of the Housing and Community Development Act of 1974, as amended.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk from 8:45 a.m. to 5:15 p.m. at the U.S. Department of Housing and Urban Development 451 7th Street, S.W., Room 5218, Washington, D.C. 20410. This rule is listed as No. FHEO–13–78 on the Department's Semiannual agenda regulation issued pursuant to Executive Orders 12044 and 12221. Accordingly, 24 CFR, Subtitle A is proposed to be

amended by adding a new Part 144 reading as set forth below.

PART 144—NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Subpart A—General Information

Subpart B—Covered Conduct

Subpart C—Compliance and Enforcement

Authority: Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383; and sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d)).

Subpart A—General Information

§ 144.10 Purpose.

The purpose of this part is to implement the provisions of Section 109 of Title I of the Housing and Community Development Act of 1974 so that no person shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

§ 144.20 Definitions.

(a) General. Except to the extent modified in this section, the definitions contained in Part 570 of this title shall apply to this part.

(b) As used in this part:

(1) The term "program or activity" includes any function (whether or not funded under Title I) which is conducted by either an identifiable administrative unit of a public entity or by an identifiable organizational unit of a private entity, carrying out community development functions funded in whole or in part with funds provided under Title I; such term includes any project, as defined in § 570.451(b), within an Urban Development Action Program, as described in § 570.456(c)(3), and also includes adminstrative services (legal, finance, personnel etc.) provided by an administrative unit of a public entity in support of any program or activity as defined herein.

(2) "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants, loans, loan subsidies, proceeds from HUD-guaranteed loans, or other program income generated by Title I activities have been disbursed for a program or activity.

(3) "Title I" means Title I of the Housing and Community Development Act of 1974, as amended.

§ 144.30 Applicability.

This part applies to any program or activity funded in whole or in part with funds under Title I of the Housing and Community Development Act of 1974 including Community Development Block Grants, Urban Development Action Grants, Secretary's Discretionary Fund Grants, Small Cities Program Grants, Financial Settlement Grants and Community Development Loan Guarantees.

Subpart B—Covered Conduct

§ 144.40 General.

As used in this subpart the term "recipient" includes a state or unit of general local government or any political subdivision or instrumentality thereof and any public or private agency, institution, organization or other entity or any individual to whom assistance is extended directly or through another recipient for any program or activity or who otherwise participates in carrying out such program or activity including any successor, assignee, or transferee thereof. Such term does not include any ultimate beneficiary under any such program or activity.

§ 144.50 Discrimination prohibited—facilities, services, financial aid and other benefits.

(a) *General.* No person in the United States shall on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program, or activity funded in whole or in part with community development funds made available pursuant to the Act.

(b) *Specific Discriminatory Actions Prohibited.* (1) A recipient may not under any program or activity funded in whole or in part with community development funds, directly or through contractual or other arrangements, on the grounds of race, color, national origin or sex:

(i) Deny any facilities, services, financial aid or other benefits under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different manner, from those provided to others under the program or activity.

(iii) Subject a person to segregated or disparate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under, the program or activity.

(iv) Restrict in any way access to, or receipt of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from other in determining whether the individual satisfies any admission, enrollment, eligiblility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services, financial aid, or other benefits provided under the program or activity.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially imparing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity funded in whole or in part with community development funds on the ground of race, color, national origin, or sex; or which have the purpose of effect of defeating or substantially impairing the accomplishment of the objectives of Section 109 and of this part.

(4) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit selectivity on the basis of sex when institutional or custodial services can be performed only by a member of the same sex as the recipients of the services.

(5) Under certain limited circumstances CDBG funds may be used by a recipient for facilities or services to be provided separately or exclusively to member of one sex. Among the factors to be considered in determining whether an activity is permitted under this section are the necessity of providing services or facilities separately or exclusively to members of one sex, and the availability, where appropriate, of comparable services or facilities to members of the other sex. For example, separate residential, institutional or custodial facilities, such as battered women's shelters or halfway houses for teenage boys meeting these criteria would be permissible. Likewise, a recipient may provide funding to traditionally single-sex youth

organizations, such as Boy's Club and Girl Scout organizations where both . . sexes have substantially the same services or facilities available to them (where appropriate) whether or not provided or funded by the recipient.

(c) *Affirmative Action.* The following affirmative action requirements are also provided in the Department's regulation at 24 CFR 1.4(b)(6)(i) and (ii) promulgated pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and are applicable to the programs covered in this regulation.

(1) In administering a program or activity funded in whole or in part with community development funds regarding which the recipient has been found to have previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of past discrimination.

(2) Even in the absence of past discrimination, a recipient, in administering a program or activity funded in whole or in part with community development funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex.

Where previous discriminatory practices or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity funded in whole or in part with community development funds, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the past discriminatory practice or usage, and to accomplish the purpose of Section 109.

(3) A recipient shall not be prohibited by this part from taking any action to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

§ 144.60 Discrimination prohibited—employment.

(a) *General.* A recipient may not, under any program or activity funded in whole or in part with community development funds, directly or through contractual agents or other arrangements, subject a person to discrimination on the ground of race, color, national origin, or sex in the terms and conditions or employment including recruitment, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay, fringe benefits, training or other forms of compensation and the use of facilities.

(b) *Determination of compliance.* In the review of employment practices to which Section 109 of the Act applies, the Assistant Secretary for Fair Housing and Equal Opportunity shall follow the guidelines and policies of the Equal Employment Opportunity Commission issued pursuant to EEOC's authority under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

§ 144.70 Contractual and regulatory requirements.

State and local governments which are recipients shall impose, and shall take such action as may be necessary to effectuate, appropriate contractual and regulatory provisions, in order to secure compliance by recipients, contractors, lessors, lessees and other recipients with the requirements of this subpart.

§ 144.100 Compliance data and reports.

(a) *General.* Demographic, racial, ethnic and gender data required in § 70.907(f) of this title shall be maintained by a recipient state or unit of general local government. Any entity carrying out a project, as defined in § 570.451(b) shall, on request from the recipient, collect and maintain data reflecting the race, national origin, and gender of persons who benefit from assistance made available under Title I.

(b) *Access to data and other sources of information.* Each recipient shall permit access by authorized representatives of HUD and the Department of Justice during normal business hours to such of its facilities, books, records, accounts, personnel, and other sources of information as may be relevant to a determination of whether the recipient is complying with this part. The fact that data, reports or information required are in the exclusive possession of any other agency, institution, or person, and that such agency, institution, or person has failed or refused to furnish the data, reports or information does not satisfy the responsibilities and obligations imposed in this section and, in such case, the recipient may be found in noncompliance with this part.

(c) *Reports.* Recipients shall submit to the Assistant Secretary for Fair Housing and Equal Opportunity timely, complete, and accurate reports at such time and in such form and containing such information as may be determined to be necessary to enable the Assistant Secretary for Fair Housing and Equal Opportunity to ascertain compliance with this part.

§ 144.110 Complaints and investigations.

(a) *Complaints.* Any person who believes that he or she or any specific class of persons has been subjected to discrimination prohibited by this Part 144 may personally, or by a representative, file with the Department a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) *Investigations.* The Assistant Secretary for Fair Housing and Equal Opportunity shall make a prompt investigation whenever a report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

§ 144.120 Compliance reviews.

The Assistant Secretary for Fair Housing and Equal Opportunity shall from time to time review the practices of recipients to determine whether they are complying with this part.

§ 144.130 Intimidatory or retaliatory acts.

No representative of a recipient nor any of its agencies shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Section 109 of the Act or this part because that person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

§ 144.135 Disclosure of compliance data and findings.

A HUD officer or employee shall not, directly or indirectly, disclose any data gathered in the course of an investigation or compliance review, or any findings based on such data, to the recipient, a complainant, or any non-Federal employee prior to notification of the recipient pursuant to § 144.145.

Subpart C—Compliance and Enforcement

§ 144.140 Definition of recipient.

As used in this Subpart the term "recipient" is a state or unit of local government receiving assistance under Title I.

§ 144.145 Notification of findings.

(a) Whenever the Assistant Secretary for Fair Housing and Equal Opportunity determines (on the basis of a complaint investigation or compliance review), that a state or unit of general local government which is a recipient of assistance under the Act has apparently failed to comply with the provisions of this part, he or she shall notify the Governor of such state or the chief executive officer of such unit of general local government of the findings of apparent noncompliance and shall request the Governor or the chief

executive officer to secure compliance.

(b) If an investigation or compliance review does not warrant action pursuant to paragraph (a) of this section, or if subsequent to receipt of a notice of apparent noncompliance, the state or unit of general local government establishes its compliance with Section 109 and this part, the Assistant Secretary for Fair Housing and Equal Opportunity will so inform the recipient and the complainant, if any, in writing.

§ 144.150 Response to notification.

No later than 60 days after receipt of notification of apparent noncompliance the recipient shall take one or more of the following actions:

(a) Present documentary information which demonstrats that the Department's findings are factually incorrect or incomplete;

(b) Present documentary information which demonstrates that there is a valid reason for the apparent noncompliance which is not related to race, color, national origin or sex;

(c) Take immediate corrective action and demonstrate to the Department the results of such action;

(d) Submit a written plan for voluntary compliance as defined in § 144.160 acceptable to HUD.

§ 144.155 Evaluation of recipient's response.

The Assistant Secretary for Fair Housing and Equal Opportunity shall evaluate the sufficiency of the response to the notification and determine if the response has brought the recipient into compliance or if further action is required.

§ 144.160 Compliance agreements.

In any case of apparent noncompliance pursuant to § 144.145(a), in which the recipient does not establish its compliance pursuant to § 144.150, compliance shall be secured, if possible, by informal means in the form of a compliance agreement which shall:

(a) Be in writing signed by the Assistant Secretary for Fair Housing and Equal Opportunity or designee and the Governor or the chief executive officer of the recipient concerned.

(b) Cover all matters that constitute the failure to comply with the requirements of the Act or this part.

(c) Contain the terms and conditions with which the state or unit of local government has agreed to comply in order to:

(1) Overcome the effects of past acts or practices constituting apparent noncompliance; and (2) prevent future noncompliance with the Act or this part.

(d) Include appropriate numerical or other programmatic goals, targets and timetables so that achievements under the agreement can be measured.

(e) Include appropriate reporting requirements so that the recipient and the Department can monitor progress under the compliance agreement.

Such terms and conditions may include the payment of restitution to persons injured by the failure of the recipient to comply with § 144.60(a).

§ 144.170 Procedure for effecting compliance.

If the Governor or the chief executive officer of the unit of local government refuses to secure compliance or if he or she fails to secure compliance within the sixty day period allowed under § 144.150, the Assistant Secretary for Fair Housing and Equal Opportunity, with the concurrence of the Secretary, is authorized to utilize any one of the following procedures: (a) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (b) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (c) exercise the powers and functions provided for in Section 111(a) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 et seq.) or (d) take such other action as may be provided for by law. When a matter is referred to the Attorney General pursuant to the preceding sentence, or whenever the Attorney General has reason to believe that a state government or unit of general local government is engaged in a pattern or practice in violation of the provisions of § 144.50 or § 144.60, he or she may bring a civil action in an appropriate United States District Court for such relief as may be appropriate, including injunctive relief.

§ 144.180 Sanctions for noncompliance.

A recipient's failure to comply with Section 109 of the Housing and Community Development Act of 1974, as amended, or this part after reasonable notice and opportunity for hearing can be cause for the Assistant Secretary for Fair Housing and Equal Opportunity, with the approval of the Secretary, to:

(1) Terminate, suspend, or refuse to grant payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this part; or

(3) Limit the availability of payments to programs, projects, or activities not affected by such failure to comply.

Provided, however, that the Secretary may on due notice revoke the recipient's letter of credit in whole or in part at any time after the initial finding of failure to comply, pending such hearing and a final decision of the Department, to the extent the Secretary determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply.

Procedures to be used to remedy noncompliance with this part are provided for in §§ 1.8–1.12, 2.1–2.131 and 570.913 of this title, as appropriate.

§ 144.190 Agreements between agencies.

(a) *Purpose of agreements.* The Assistant Secretary for Fair Housing and Equal Opportunity shall endeavor to enter into cooperative agreements with officials of other Federal Departments and agencies to effectuate the purposes of this part, including the achievement of effective coordination within the Executive Branch in the implementation of Section 109 of the Act and Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 2000e).

(b) *Content of agreements.* The agreements between the Assistant Secretary for Fair Housing and Equal Opportunity and other agencies or officials shall describe the cooperative efforts to be undertaken, which may include:

(1) The conduct of joint investigations and compliance reviews;

(2) Designation of a single agency to conduct investigations or reviews of joint interest;

(3) The sharing of information filed by recipients with either agency;

(4) Reciprocal notification of findings of apparent noncompliance or enforcement actions against recipients alleging violation of Federal civil rights statutes or regulations issued thereunder.

(c) *Publication of agreements.* Any agreement between HUD and another Federal Department or agency shall be published in the **Federal Register.**

§ 144.200 Effect on other regulations.

(a) Nothing contained in this Part 144 shall be deemed to relieve any person of any obligation assumed or imposed pursuant to HUD regulations prior to the effective date of this regulation.

(b) Nothing contained in this Part 144 shall be deemed to limit the responsibility of recipients to comply with the provisions of Departmental regulations applicable to assistance received under the Act.

(Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383; and sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 2535(d))).

Issued at Washington, D.C., September 19, 1980.

Weldon H. Latham,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 80-36650 Filed 11-24-80; 8:45 am]

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federal register

Tuesday
November 25, 1980

Part IX

Department of Health and Human Services

Food and Drug Administration

Cimetidine, Clofibrate, and Propoxyphene; Prescription Drug Products That Require Patient Package Inserts and Final Guideline Patient Package Inserts

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Cimetidine, Clofibrate, and Propoxyphene

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends its patient package insert regulations to list cimetidine, clofibrate, and propoxyphene as drugs that must be dispensed with patient package inserts. Elsewhere in this issue of the **Federal Register**, FDA announces the availability of final guideline patient package inserts for these drugs and applies the agency's patient package insert regulations to them.

EFFECTIVE DATE: May 25, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-433-4893.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. The agency also published in that issue of the **Federal Register** (45 FR 60785) 10 draft guideline patient package inserts for the following drugs and drug classes: ampicillins, benzodiazepines, cimetidine, clofibrate, digoxin, methoxsalen, propoxyphene, phenytoin, thiazides, and warfarin.

Under § 203.30(a) (21 CFR 203.30(a)), FDA's patient package insert regulations apply to a drug or drug class 180 days after the agency publishes a notice in the **Federal Register** announcing the applicability of the requirements to the drug or to a drug class. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice making available final guideline patient package inserts for cimetidine, clofibrate, and propoxyphene and applying the agency's patient package insert regulations to those drugs. Use of the guidelines by manufacturers, distributors, and dispensers constitutes compliance with the agency's patient package insert regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the actual patient package inserts dispensed to patients. Use of the guideline patient package inserts is not required, however. This final rule adds new § 203.31 (21 CFR § 203.31) to list cimetidine, clofibrate, and propoxyphene as drugs that require patient package inserts.

A trade association objected to FDA's procedure for applying the patient package insert regulations. The association argued that publication of a notice in the **Federal Register** applying the patient package insert regulations to a particular drug or drug class does not provide the public with an opportunity to comment on the application of the regulations, and that the procedure is inconsistent with FDA's past practice of requiring patient package inserts for drug products like estrogens, where FDA used notice and comment rulemaking. The association also argued that any amendment to § 203.31 to list a drug or drug class in the agency's patient package insert regulations must be made through notice and comment rulemaking. Finally, the association contended that FDA has not adequately explained why it is applying the patient package insert regulations to the 10 drugs or drug classes identified in the September 12, 1980 notice of draft patient package inserts guidelines.

FDA does not agree. The final patient package insert regulations published on September 12, 1980, after full notice and opportunity for comment, establish general requirements for patient package inserts for all prescription drugs, and set forth the procedure, publication of notice in the **Federal Register**, that would be used to indicate at what point in time these regulations would become effective for individual drugs. (A notice published elswhere in this issue of the **Federal Register** establishes the effective date of the agency's patient package inserts guidelines for cimetidine, clofibrate, and propoxyphene.) Because the regulations are applicable to all drugs, FDA does not believe that a new formal proposal and comment period, providing additional opportunity for comment, is required when the regulations are to become effective for individual drugs. This final rule simply adds text to § 203.31 to list cimetidine, clofibrate, and propoxyphene in the agency's patient package insert regulations, providing a permanent inventory in the Code of Federal Regulations to help persons who review the regulations determine to which drugs and drug classes they apply. The list contains the name of the drug or drug class and the effective date on which the patient package insert regulations apply to the drug.

Although FDA has established some patient package inserts requirements for specific drugs by enacting a specific regulation for each drug, the agency does not agree that its patient package inserts program must be restricted to that approach. As stated in the final rule published September 12, 1980 (45 FR 60754), general requirements are amply justified by data demonstrating substantial noncompliance by patients with drug therapy, that providing patients with information about drugs increases the degree to which they use them properly, and that existing drug-dispensing mechanisms are not adequately providing the information to patients.

Finally, the proposal published July 6, 1979 (44 FR 40016), identified four criteria the agency proposed to use to select the drugs and drug classes to which the agency would initially apply the regulations. As stated in the final rule (45 FR 60773), the agency used those criteria to select the drugs and drug classes for initial application of the regulations. Thus, the agency has fully explained its application of the final patient package insert regulations to those drugs and drug classes.

The agency has also received requests for clarification of the applicability of the patient package insert regulations to nonoral dosage forms of drugs and to drug products containing two or more active drug ingredients, that is, combination drug products. Although the regulations apply to all drugs and drug classes, the agency intends to implement patient package inserts initially for only a few drugs and evaluate the program further before applying the requirements to additional drugs. Nevertheless when the agency applies the regulations to a drug or drug class, the agency will generally apply them to all dosage forms and to both single-entity and combination products, unless the notice under § 203.30(a) specifically limits the applicability of the regulations. By not specifically limiting the application of the initial 10 draft guidelines to single-entity drug products or specific dosage forms, the agency intended, except for single-entity thiazides, that those guidelines apply to all drug products and all dosage forms that contain a drug to which the regulations apply. The agency does not intend to apply during the initial implementation period the patient package insert regulations to combination drugs containing thiazides

because of the many other active ingredients in those combinations; other active ingredients which themselves would require the development of additional guidelines and enlarge significantly the scope of the agency's initial application of the regulations. In the list in § 201.31, the agency has clarified that the guidelines apply to both single-entity and combination drug products and all dosage forms.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 203 is amended by adding new § 203.31 to read as follows:

§ 203.31 Drugs which require patient package inserts.

The patient package insert regulations in this part apply on and after the date given in the list below to each drug product that contains a drug listed below or a drug within a drug class listed below. Unless otherwise stated in the list, the regulations apply to all dosage forms of the drug or member of the drug class, either as a single active ingredient or in combination with one or more additional active ingredients.

Drug or drug class	Effective
Cimetidine	May 25, 1981.
Clofibrate	Do.
Propoxyphene	Do.

Effective date. This regulation becomes effective May 25, 1981.

(Secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)); (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: November 18, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-36669 Filed 11-24-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0370]

Prescription Drugs; Final Guideline Patient Package Inserts for Cimetidine, Clofibrate, and Propoxyphene

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is establishing final guideline patient package inserts for drug products containing cimetidine, clofibrate, or propoxyphene. The use of the final guideline patient package inserts by manufacturers, distributors, and dispensers will constitute compliance with the agency's regulations requiring the dispensing of patient package inserts for these drugs. Elsewhere in this issue of the **Federal Register** FDA amends its patient package insert regulations to list these drugs as ones that must be dispensed with patient package inserts.

EFFECTIVE DATE: May 25, 1981.

ADDRESS: 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: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4893.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is issuing final guideline patient package inserts for cimetidine, clofibrate, and propoxyphene and thereby applying to these drugs FDA's patient package insert regulations in Part 203 (21 CFR Part 203), published in the **Federal Register** of September 12, 1980 (45 FR 60754). The regulations apply to all dosage forms of these drugs, both single entity and combination drug products (drug products that contain on of the affected drugs and one or more other active ingredients). Elsewhere in this issue of the **Federal Register** the agency is amending § 203.31 (21 CFR 203.31) to list cimetidine, clofibrate, and propoxyphene as drugs for which patient package inserts are required. Under § 203.30(a) the patient package inserts requirements apply to drug products containing cimetidine, clofibrate, or propoxyphene on and after May 25, 1981.

Use of FDA's final guideline patient package inserts constitutes compliance with the regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the particular insert. Thus, the guidelines do not contain the following: (1) The name and place of business of the manufacturer, packer, distributor, or dispenser, (2) information about routes of administration for drug products that are not for oral use, (3) a statement about special handling or storage conditions, and (4) the date of the most recent revision of the insert. This information is dependent upon a particular person or product. The guideline patient package inserts for cimetidine, clofibrate, or propoxyphene also do not contain statements generally required by the underlying regulations about the use of the drugs during labor and delivery or statements about the specific pediatric indications or hazards. None of the drugs have a recognized use during labor or delivery nor do they have specific pediatric indications or known serious hazards that are specific for pediatric patients.

The agency has revised the patient package insert guidelines to make them clearer and more understandable. The agency has also made the following changes in specific guidelines.

Cimetidine. The "Summary" and "How to take Cimetidine" sections have been revised to state that ulcer pain may decrease within a few days after starting cimetidine and to state that cimetidine should be taken with meals. These changes make the guideline more consistent with the drug's professional labeling. The "Side Effects" section of the labeling has also been revised to reflect better the professional labeling for the drug. The revisions help clarify that only a few men and women have reported slight breast enlargement and sore breasts from the use of the drug. The statement "antacids help the ulcer to heal and control its symptoms" has been deleted because antacids, while used for symptomatic relief of ulcer pain, are not indicated for ulcer healing. Information about the use of cimetidine during pregnancy and breast feeding, which was stated in the "General Cautions" section of the draft guideline, has been placed under a heading entitled "Pregnancy and Breast Feeding." This change conforms the cimetidine guideline to the agency's other patient package insert guidelines.

Clofibrate. Contraindications to taking clofibrate have been placed under a section entitled "Before Taking Clofibrate." Information about the use of clofibrate during pregnancy and breast feeding has been placed under a specific section entitled "Pregnancy and Breast Feeding," which has been revised to state that clofibrate should not be used by pregnant or nursing women. These changes make the clofibrate guideline more consistent with the drug's professional labeling and conform the clofibrate guideline to the agency's other patient package insert guidelines. The explanation of the risks of taking clofibrate has been revised to reduce the emphasis on the raw data from studies of clofibrate. The agency has decided that the data are too technical to be useful in a draft guideline.

Propoxyphene. The agency has added to the final propoxyphene patient package insert guideline a new section, "Uses of Propoxyphene," that states that propoxyphene is used to treat mild to moderate pain and may be marketed as a combination drug with aspirin or acetaminophen. Information about the use of propoxyphene during pregnancy and breastfeeding has been placed under a section entitled "Pregnancy and Breast Feeding." These changes conform the propoxyphene guideline to the agency's other patient package insert guidelines. The agency has also revised the propoxyphene guideline to caution against, instead of prohibiting, the use of propoxyphene and aspirin combination drug products in patients with ulcers and patients taking anticoagulants and to add to the "How to Take Propoxyphene" section a statement that refills of propoxyphene prescriptions may be limited because the patient may become dependent upon the drug. These changes make the propoxyphene guideline more consistent with the drug's professional labeling.

General Comments

1. In response to the agency's request for comments on its guideline patient package inserts, several manufacturers submitted copies of patient package inserts they had prepared that differed from the agency guidelines. The manufacturers asked whether the agency considered their patient package inserts to comply with the regulations.

The agency advises that it does not have sufficient resources to approve patient package inserts for manufacturers in advance of effective dates. As stated in the final rule and the notice of draft patient package insert guidelines, use of the agency's guidelines is not required. As long as the manufacturer's patient package insert complies with the final regulations, it can deviate from the agency's guideline. Manufacturers should be able to achieve compliance without difficulty, even if

they depart from published guidelines, on the basis of the content requirements of the regulations and the guideline patient package inserts. Manufacturers and distributors of prescription drug products that are subject to premarket approval by the agency, and who are required to supplement or amend their new drug applications or antibiotic forms to include their patient package inserts, will have their labeling reviewed as part of that process, although under the final patient package insert regulations the labeling may be put into use before approval. The timing of any changes in patient package inserts required by the approval process will take into account manufacturers' expenditures on labeling supplies and the agency's inability to review the material before its use.

2. Smith Kline and French Laboratories (SKF), Philadelphia, PA, the sole marketer of cimetidine, asked that FDA postpone publication of its final guideline patient package insert for cimetidine without delaying the effective date of the patient package insert requirement for cimetidine. SKF urged that the delay in publication of the final guideline would provide time to study further alternative texts for the patient package insert and would permit FDA and SKF to produce a uniform text for FDA's guideline and SKF's patient package insert.

FDA does not believe a delay in the publication of the final cimetidine patient package insert guideline is warranted. Under the regulation, SKF may deviate from FDA's guideline and prepare a patient package insert based on its own studies of alternative texts as long as its labeling complies with the regulation. Moreover, a delay in publication of the final guideline without a delay in the implementation of the patient package insert requirement for cimetidine would give distributors and dispensers who wish to develop their own cimetidine patient package insets, less time to do so.

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency and under § 203.30(a) which provides for applying FDA's patient package insert regulations to prescription drugs and drug classes. The agency advises that the patient package insert guidelines comply with FDA's patient package insert regulations in Part 203 and can be relied upon by any person to meet those requirements. Under § 203.30(c) (21 CFR 203.30(c)), the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided for in the guideline.

These guidelines are effective May 25, 1981. Section 10.97(b)(7) (21 CFR 10.90(b)(7)) provides that a notice of guideline shall state that interested persons may submit written comments on the guideline. Although the present guidelines have been subject to full notice and comment proceedings before issuance, consistent with the regulations and past agency practice, interested persons may submit written comments on the final guidelines 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. As in the case of any final guideline, FDA does not view itself obligated to respond formally to these comments; they will be considered, however, in determining whether future revisions of the guidelines are warranted or desirable. Comments should be in four copies except that individuals may submit single copies, indentified with the docket number found in the brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Mangement Branch's office between 9 a.m. and 4 p.m., Monday through Friday.

The guideline patient package inserts for cimetidine, clofibrate, and propoxyphene follow:

Dated: November 18, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

BILLING CODE 4110-03-M

Cimetidine

(pronounced: sye-MET-i-deen)

Summary

Cimetidine is commonly used to treat duodenal ulcers and in certain cases to prevent them from recurring. It may take several weeks for the ulcer to heal completely, although the ulcer pain may decrease within a few days after treatment begins. Do not stop taking the drug unless your doctor tells you to stop. You may also need to take antacids between doses of cimetidine to relieve ulcer pain.

The rest of this leaflet gives you more information about cimetidine and ulcers. Please read it and keep it for future use.

Uses of Cimetidine

Cimetidine helps heal intestinal ulcers by decreasing the amount of acid made by the stomach. Ulcers and the pain they cause are often relieved by decreasing the amount of acid produced. With proper treatment, most ulcers heal within 6 to 8 weeks.

Cimetidine is also used to prevent ulcers from recurring. When used for this reason, the drug is taken at a lower dose and only at bedtime. Cimetidine may also be used for other conditions as determined by your doctor.

How To Take Cimetidine

Cimetidine should be taken with meals and at bedtime. Your doctor may tell you to take antacids in addition to cimetidine.

Although the healing effects of cimetidine begin soon after treatment begins, you must take the drug for several weeks. This allows your ulcer to have a chance to heal completely. Do not stop taking cimetidine without first checking with your doctor. If ulcer pain lasts or worsens while you are taking the drug, call your doctor.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time.

Pregnancy and Breast Feeding

You should not take cimetidine during pregnancy unless your doctor knows you are pregnant and nevertheless advises you that cimetidine is necessary. Cimetidine enters the bloodstream of the unborn child, and the immediate or delayed effects (if any) on the unborn child are not known. As a general principle no drug should be taken during pregnancy unless it is clearly necessary.

If cimetidine is taken by a nursing mother, it is not known if it passes to the child in breast milk. Because many drugs are passed to the child in human milk, it is safer not to breast feed a child if you are taking this drug.

General Cautions

When taking cimetidine do not use any other drugs, including nonprescription drugs, unless your doctor knows and approves of their use. Drugs to be especially careful about are:

- Aspirin or arthritis drugs—they may irritate your ulcer and cause more pain.
- anticoagulants (blood thinners)—cimetidine may increase the effect of anticoagulants. Your doctor may need to reduce the dose of the anticoagulant to prevent bleeding.
- drugs used to treat anxiety (tranquilizers such as Valium [diazepam] or Librium [chlordiazepoxide]) —cimetidine can prolong the action of these drugs and your doctor may need to reduce their dose.

You may find that certain foods and drinks irritate your ulcer. For example, alcohol, coffee, tea, cola drinks and highly acidic foods (such as tomatoes) may cause some pain. Cigarette smoking can delay ulcer healing.

Side Effects

The most frequently reported side effects of taking cimetidine are: diarrhea, rash, dizziness, and muscle pain, each of which has been reported by about one patient out of every 100 who took cimetidine. Headache or fever occur more rarely.

A few men and women have reported slight breast enlargement and sore breasts.

Mental confusion can occur, especially in elderly and severely ill patients. These effects usually are not severe, and they disappear if the drug is stopped. If any of these or other side effects bother you, call your doctor.

On rare occasions, patients taking cimetidine have had serious blood disorders. Symptoms of these disorders include tiredness, weakness, pale appearance, increased occurrence of infection, fever, sore throat, and easy bruising or bleeding. If you develop these symptoms you should contact your doctor immediately. A few cases of kidney and liver disease have also been reported.

Other Information

For cimetidine to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about cimetidine, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Clofibrate

(pronounced: kloe-FYE-brate)

Summary

Clofibrate is used to lower the amount of fatty substances in the blood, namely, cholesterol and triglycerides. People with high levels of fats in their blood have a greater risk of heart disease, and clofibrate, along with diet and exercise, is intended to reduce this risk. However, clofibrate may at the same time increase your risk of having gallbladder trouble or getting tumors.

Therefore, clofibrate is not for everyone with high cholesterol and triglycerides. It should be used only by people who have not responded to diet, weight loss, exercise, or other measures prescribed by their doctor.

It is important for patients taking clofibrate to have regular blood tests. The rest of this leaflet gives you more information about clofibrate. Please read it and keep it for future use.

Why Reduce Cholesterol and Triglycerides?

When large amounts of fatty substances are in the blood, they can harden and build up along the walls of the arteries (blood vessels coming from the heart). This process is called atherosclerosis, and it can decrease the flow of blood to vital organs by narrowing the arteries. This in turn can cause heart disease, such as angina (chest pain), heart attack, or stroke. These are among the leading causes of death in the United States.

People with high levels of cholesterol and triglycerides in their blood have a higher risk of heart attack than people with lower levels. If you have a high level of these fatty substances in the blood, it has been assumed wise to attempt to reduced these high levels with diet, exercise, and (in some patients) drugs. However, the benefit of clofibrate, if any, in reducing the risk of heart attacks is not certain at this time. In one large study, of clofibrate, for example, there was a 33 percent decrease in ***nonfatal*** heart attacks for patients whose cholesterol levels were reduced by the drug but there was no decrease in ***fatal*** heart attacks. In another large study of patients who had had at least one heart attack, neither clofibrate nor other drugs that lower cholesterol decreased the rate of subsequent fatal heart attacks.

Before Taking Clofibrate

Before taking clofibrate, tell your doctor if you:

- are taking an anticoagulant drug (a blood thinner). Your doctor may have to decrease the dose of the blood thinner.
- have diabetes. If you can control diabetes by diet or drugs, your cholesterol and triglyceride levels may also be controlled. Therefore you may not need to take clofibrate.
- have a stomach or intestinal ulcer. Taking clofibrate may make your ulcer worse.
- have had jaundice or liver disease. Your doctor may switch to another drug.

How To Take Clofibrate

If a change in diet or exercise does not lower cholesterol, or if other drugs do not reduce cholesterol, clofibrate may be prescribed. If clofibrate is prescribed for you, it is important to take it on the schedule that your doctor has advised.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time.

Pregnancy and Breast Feeding

You should not take clofibrate if you are pregnant or nursing a child. Women capable of becoming pregnant should practice some form of birth control while taking clofibrate. Women who plan to become pregnant should stop taking clofibrate several months before trying to become pregnant.

Risks of Taking Clofibrate

Two very large studies have indicated that taking clofibrate for several years presents important risks. These studies show a doubling of the risk of getting gallstones or an inflamed gallbladder. For people taking clofibrate for 5 years, about 1 patient in 100 may require gallbladder surgery.

One of the studies also suggested that people who take clofibrate have an increased risk of getting cancer. For people taking clofibrate for 5 years, this study suggested that an additional 1 person out of 400 would be expected to get cancer during the 5 year period; this is about a 30% increase above the expected cancer rate. Mice and rats given clofibrate at five to eight times the human dose showed an increased number of liver tumors, some of which were cancerous. This further supports the evidence that clofibrate may produce cancer in humans.

Several other problems relating to the heart and circulation of blood were noticed in the other study. These include heart arrhythmias (abnormal heart beat), blood clotting, angina (chest pain) and blood circulation problems (noticed by pain in the legs).

Because of these risks and the uncertain benefits of this drug, (and others used to treat high cholesterol and triglycerides), relatively few patients should take clofibrate continuously. Your doctor will advise you on whether you may be one of those patients.

General Cautions

If your doctor has suggested a certain diet or exercise program, follow these plans closely while taking clofibrate. You should have regular blood tests to find out if clofibrate is working. In addition, you may need to have other tests to find out if clofibrate is causing any harmful effects. Your doctor may decide to stop prescribing clofibrate after a few months if the cholesterol and triglycerides in your blood have not decreased. To make sure your doctor can tell how well it is working, it is important to take clofibrate on the schedule prescribed.

Side Effects

In addition to the risks already mentioned, there are some side effects that can occur while you are taking clofibrate. Most of these are not too serious.

You may get "flu-like" symptoms such as muscle aches, soreness, or cramping. Some other side effects include stomach problems (such as nausea, diarrhea, vomiting, and bloating); skin reactions (such as itching, rash); loss of hair and dry, brittle hair; headache; dizziness; increased appetite and weight gain; decreased sexual desire; painful or difficult urination; liver problems; anemia; or a decrease of white blood cells. If any of these or other side effects bother you, call your doctor.

Other Information

For clofibrate to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about clofibrate, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Propoxyphene
(pronounced: proe-POX-i-feen)

Summary

Propoxyphene is used to relieve pain. However, it can be dangerous when taken with other drugs or alcohol. LIMIT YOUR INTAKE OF ALCOHOL WHILE TAKING THIS DRUG. ALSO DO NOT TAKE ANY TRANQUILIZERS, SLEEP AIDS, ANTIDEPRESSANTS, ANTIHISTAMINES, OR ANY OTHER DRUGS THAT MAKE YOU SLEEPY UNLESS YOUR DOCTOR TELLS YOU TO DO SO. COMBINING ANY OF THESE WITH PROPOXYPHENE MAY LEAD TO AN OVERDOSE.

Propoxyphene may make you sleepy. Use care driving a car or using machines until you see how the drug affects you. Do not take more of the drug than your doctor prescribed. You may become dependent on propoxyphene if you take it for a long period of time at a dose greater than recommended.

The rest of this leaflet gives you more information about propoxyphene. Please read it and keep it for future use.

Uses of Propoxyphene

Propoxyphene is used to treat mild to moderate pain. It may be given alone or in combinations that, in addition to propoxyphene, contain aspirin or acetaminophen.

Before Taking Propoxyphene

Make sure your doctor knows if you have ever had an allergic reaction to any ingredient of the product prescribed (propoxyphene, aspirin, or acetaminophen).

Propoxyphene-aspirin combination products usually should not be used if you have an ulcer or if you are taking an anticoagulant (blood thinner). The aspirin may irritate the ulcer and cause it to bleed. In a small group of people, aspirin may cause an asthma attack. If you are one of these people, be sure your drug does not contain aspirin.

The use of propoxyphene in *children under 12* has not been sufficiently studied. Therefore it is recommended that propoxyphene not be given to children under 12 years of age.

How To Take Propoxyphene

Follow your doctor's directions exactly. Do not increase the amount you take unless your doctor approves. If you miss a dose of the drug, do *not* take twice as much the next time.

Staying on propoxyphene for long periods of time can cause certain problems (see "Dependence" section). Therefore, your doctor may limit the number of times this prescription may be refilled.

Pregnancy and Breast Feeding

You should not take propoxyphene during pregnancy unless your doctor knows you are pregnant and nevertheless advises you that propoxyphene is necessary. If a mother has been taking large does of propoxyphene for a long time before delivery of her child, the child may be born dependent on this drug (see "Dependence" section). As a general principle no drug should be taken during pregnancy unless it is clearly necessary.

If propoxyphene is taken by a nursing mother, small amounts may pass to the child in breast milk. Although no negative effects have been reported, you should talk to your doctor about taking this drug while breast feeding.

General Cautions

Combining excessive doses of propoxyphene, alcohol, and tranquilizers is dangerous. Make sure your doctor knows you are taking tranquilizers, sleep aids, antidepressant drugs, antihistamines, or any other drugs that make your sleepy. The use of these drugs with propoxyphene increases their sedative effects and may lead to overdosage symptoms, and even death (see "Overdose" below). LIMIT YOUR INTAKE OF ALCOHOL WHILE TAKING PROPOXYPHENE.

Propoxyphene may cause drowsiness or impair your mental and/or physical abilities; therefore, use caution when driving a vehicle or operating dangerous machinery. DO NOT perform any hazardous task until you have seen your response to this drug.

Dependence

You can become dependent on propoxyphene. Dependence is a feeling of need for the drug and a feeling that you cannot perform normally without it. Depend-

ence may occur in people who have taken larger than recommended doses of propoxyphene over a long period of time. When dependent people stop taking it, they may develop withdrawal symptoms such as cramps, sweating, runny nose, yawning, shivering, diarrhea, and irritability.

Overdose

Because of an increase in the drug's sedative effects if it is used alone at higher then recommended doses or if it is used in combination with alcohol or other drugs an overdose of propoxyphene is possible. It may cause extreme drowsiness, weakness, breathing difficulties, and confusion. A large overdose may lead to unconsciousness and death.

When the drug also contains acetaminophen, symptoms of an overdose may include nausea, vomiting, lack of appetite, and abdominal pain. An overdose of this drug may lead to liver damage, coma, and death.

When the drug also contains aspirin, symptoms of an overdose due to aspirin may include headache, dizziness, ringing in the ears, difficulty hearing, dim vision, confusion, drowsiness, sweating, thirst, rapid breathing, nausea, vomiting, and occasionally, diarrhea.

If you think you have taken an overdose or if you think someone else has taken an overdose contact your poison control center, doctor, pharmacist or nearest hospital emergency room. GET EMERGENCY HELP IMMEDIATELY.

KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

Side Effects

When propoxyphene is taken as directed, side effects are infrequent. Among those reported are drowsiness, dizziness, nausea, and vomiting. If these effects occur, it may help to lie down and rest.

Less frequently reported side effects are constipation, abdominal pain, skin rashes, lightheadedness, headache, weakness, minor visual disturbances, and feelings of excitement or discomfort.

If any of these or other side effects bother you, call your doctor.

Other Information

For propoxyphene to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you want more information about propoxyphene, ask your doctor or pharmacist. They can give you a more technical leaflet (called the professional labeling) you may read.

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Part X

Environmental Protection Agency

Hazardous Waste Management System: Clarification of Regulations on Hazardous Waste in Containers; Exemption of Certain Treated-Wood Wastes; Final List of Commercial Products Which Are Hazardous Wastes if Discarded (S261.33); Exclusions in Response to Delisting Petitions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 262, and 265

[SWH-FRL 1680-3]

Hazardous Waste Management System: General Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final amendment and interim final amendments to rule and request for comments.

SUMMARY: These amendments modify 40 CFR 261.33(c) and add a new section, 40 CFR 261.7, to EPA's May 19, 1980, hazardous waste management regulations. This new section and the change to § 261.33(c) clarify the situations in which residues of hazardous waste that are contained in drums, barrels, tank trucks or other types of containers must be managed as hazardous wastes under 40 CFR Parts 261 through 265 and 122 through 124.

DATES:

Effective dates: The effective date for § 261.7 is November 19, 1980.

The effective date for the amendments to § 261.33, § 265.173 and to § 262.51 is May 25, 1981.

Comment date: Today's amendments, with the exception of § 261.7(b)(3), which is merely a recodification, are being promulgated as interim final rules. EPA will accept comments on them until January 26, 1981.

Compliance dates: See Supplementary Information for details on compliance dates.

ADDRESSES: Comments of these amendments should be sent to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Authority

These amendments are issued under the authority of Sections 1006, 2002(a), and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), and 6921.

II. Compliance Dates

EPA does not consider new § 261.7 to be a "revision" of the Section 3001 regulations within the meaning of Section 3010(b) of RCRA. It is merely a clarification of the May 19, 1980, regulations and does not subject any person to regulatory control who was not already subject to the May regulations. All such persons, of course, should have already notified EPA of their hazardous waste activities on or before August 18, 1980, and if they are hazardous waste treatment, storage or disposal facilities must submit a Part A permit application to EPA on or before November 19, 1980.

Today's amendment to § 261.33(c), which clarifies that EPA considers as hazardous wastes container residues of acutely hazardous materials that are discarded, and does not consider the containers themselves to be hazardous wastes when they are discarded, will require additional persons to notify EPA that they handle these acutely hazardous wastes and will require any treatment, storage or disposal facility which wants to continue to handle such wastes also to submit a Part A permit application and qualify for interim status.

A. Notification

Persons who generate, transport, treat, store or dispose of wastes which are newly subject to regulation under Parts 261 through 265, 122 and 124 because of today's revision to § 261.33(c) are not required to notify EPA so long as they previously notified the Agency that they handle a hazardous waste and received an EPA identification number.[1] Persons who have not previously notified EPA and who now generate or handle the wastes newly included by the amendment to § 261.33(c) must now notify EPA of their activities under Section 3010 no later than January 26, 1981. Notification instructions are set forth in 45 FR 12746 (February 26, 1980).

B. Part A Permit Applications

The owners or operators of all existing hazardous waste management facilities (see the definition of "existing HWM facility" in 40 CFR 122.3, 45 FR 33421 (May 19, 1980) and 45 FR 67756 (October 14, 1980)) which treat, store or dispose of wastes newly included in these regulations by the amendment to § 261.33(c), and who wish to qualify for interim status under Section 3005(e) of RCRA, must file a notification by January 26, 1981, unless they have notified previously (as described in II.A. above), and must file a permit application by May 25, 1981 (see 40 CFR 122.23(a)(1) and (2), 45 FR 33434 (May 19, 1980)).

Owners or operators of facilities who have qualified for interim status and who wish to manage wastes newly included in these regulations by the amendment to § 261.33(c) must submit an amended permit application by May 25, 1981 (see 40 CFR 122.23(c)(1), 45 FR 33434 (May 19, 1980)).

Owners or operators who do not comply with the notification or permit application requirements are precluded from managing these wastes after May 25, 1981 until they have obtained an RCRA permit under Part 122.

C. Compliance With the Requirements of Parts 262 Through 265, 122 and 124

Beginning on May 25, 1981, persons handling wastes newly included by today's amendment to § 261.33(c) must comply with all applicable standards for hazardous waste generators, transporters, and owners and operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265, 122 and 124 with respect to these wastes.

III. Background

In May of 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). These regulations, among other things, identify and list hazardous waste (Part 261), establish standards for generators and transporters of hazardous waste (Parts 262 and 263), and set management and permit requirements for owners and operators of facilities that treat, store or dispose of hazardous waste (Parts 264 and 265 and Parts 122 and 124). 45 FR 33066 (May 19, 1980). These regulations are designed to ensure the proper handling and management of hazardous wastes from their generation through their ultimate disposition.

Hazardous wastes are often stored or transported in containers.[2] Some of these containers may be full, others partially full. Depending on how a particular hazardous waste is to be managed and whether a container is to be re-used, some containers may be emptied, leaving a residue in the container. Other containers may be

[1] EPA's authority for this action is the recent amendment to Section 3010(a) of RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96-452, (October 21, 1980)) which leaves the requirements for notification following revision of the Section 3001 regulations to the discretion of the Administrator.

[2] "Container" is defined in 40 CFR 260.10 as "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled."

cleaned, perhaps creating a rinsate containing hazardous waste.

EPA has received numerous questions about the extent to which partially full, "empty" and cleaned containers, or more precisely, the waste or waste residues in such containers, are regulated under RCRA. Specifically,

(1) What is an "empty container?"

(2) Under what circumstances is a container that has held hazardous waste, but is now "empty," controlled under the RCRA hazardous waste regulations?

(3) How do the small quantity provisions (§ 261.5) and the use, re-use, recycling and reclamation provisions (§ 261.6) apply to container management?

(4) Are container cleaning operations subject to the RCRA facility and permitting requirements?

In response to these questions, EPA is modifying its hazardous waste regulations to better explain the circumstances under which a container which has held hazardous waste (including any of the chemicals listed in § 261.33 (e) and (f), when they are wastes) remains subject to the requirements of Parts 261 through 265, 122 and 124, and the notification requirements of Section 3010 of RCRA. The Agency is doing this by adding a new section of Part 261, § 261.7, which deals exclusively with the issue of when residues in containers will be subject to regulation. This new section will enable persons who deal with container residues to look to one section of the regulations to determine whether they are regulated.

IV. The Control of Residues in Empty Containers and the Definition of Empty Container

In the May 1980 regulations the only specific references to containers of hazardous waste in Part 261, which identifies those wastes subject to regulation, are in §§ 261.33(c) and 261.5(c)(3)–(4). Section 261.33(c) provides that any container or inner liner from a container that has been used to hold any acutely hazardous commercial chemical product or manufacturing chemical intermediate listed in § 261.33(e) is a hazardous waste when it is discarded or intended to be discarded, unless it has been triple rinsed or otherwise appropriately cleaned. Sections 261.5(c)(3) and 261.5(c)(4), part of the special requirements for hazardous waste generated by small quantity generators, excluded from regulation certain small containers and a certain amount of inner liners from containers identified in § 261.33(c). Otherwise, the May 1980 Part 261 regulations are silent on the control of "empty" containers and hazardous waste residues in "empty" containers.

A. Full or Partially Full Containers

Under Part 261, all solid waste that is identified or listed as hazardous waste is subject to regulation under Parts 261 through 265, 122 and 124. Thus, the May 19, 1980, regulations clearly regulate hazardous wastes in full or partially full containers.

B. "Empty" Containers

The typical emptying of a container by pouring, pumping, aspirating or other common emptying methods is not capable of removing all residues. So-called "empty" containers hold small amounts of residue unless they have been thoroughly rinsed or otherwise cleaned to remove such residues. Many persons have concluded that unless hazardous waste residues in "empty" containers are excluded by the small quantity generator exclusion of § 261.5, all such residues are fully controlled as hazardous wastes and thus persons handling such containers would, because of the residues have to ship such containers accompanied by a manifest and have a permit (or interim status) for the treatment, storage or disposal of the residues.

The Agency did not intend, however, to regulate hazardous waste residues in "empty" but unrinsed containers, except where the hazardous waste is an acutely hazardous material listed in § 261.33(e). See the preamble discussion at 45 FR 33116, May 19, 1980. EPA believes that, except where the hazardous waste is an acutely hazardous material listed in § 261.33(e), the small amount of hazardous waste residue that remains in individual empty, unrinsed containers does not pose a substantial hazard to human health or the environment. If there are certain situations where this presumption is unjustifed, the Agency will consider amendments to the regulations to accommodate them. See the discussion below in section IV.E. of this preamble.

In making this presumption, the Agency considered the amounts of hazardous waste residues contained in "empty" containers from which all hazardous wastes have been removed by common methods of emptying containers: Dumping, pouring, pumping and aspirating and, for containers of contained gas, allowing the pressure in the container to reach atmospheric. Although EPA officials have explained in many public meetings that the only residues in "empty" containers that the Agency intended to regulate were those of acutely hazardous materials listed in § 261.33(e), (see 40 CFR 261.33(c), 45 FR 33124, (May 19, 1980)), the Agency did not articulate this in the regulations.

To rectify this omission, the Agency is amending the regulations to expressly specify that the hazardous waste remaining in an "empty" container is not subject to the regulations. See § 261.7(a). On the other hand, the hazardous waste residue in any container that is not considered empty is subject to full regulation as a hazardous waste unless any of the special requirements or exclusions in Part 261 or § 262.34 apply. To implement this clarification EPA is also amending the regulations to provide a definition of "empty container." See § 261.7(b). This definition is in three parts and is keyed to the type of waste in the container, i.e., the methods that must be used to remove the residue from a container for it to be considered empty under § 261.7(b) depend on the material that the container held. What should be clear from § 261.7, however, is that no "empty" containers are subject to regulatory control because no "empty" containers hold residues that are considered hazardous wastes for regulatory purposes.

1. *Containers that have held hazardous wastes other than gases and acutely hazardous materials.* The first part of the definition of "empty container" deals with containers that have held hazardous wastes other than compressed gases and acutely hazardous materials listed in § 261.33(e). For such containers, the definition provides that an empty container is one from which all wastes or other materials have been removed that can be removed using the practices commonly employed to remove materials from that type of container. The definition further provides that no more than 2.5 centimeters (one inch) of residue may remain on the bottom of the container for it to be considered empty. The Agency recognizes that this part of the definition is not perfectly precise and may be subject to interpretation in difficult cases. For example, if the hazardous waste is a two-phase mixture of a liquid and a non-viscous solid or semi-solid and is contained in a drum with a sealed top (with only bung holes provided for filling and emptying the drum), it is very possible that common emptying methods will not remove all of the waste. Common emptying methods might remove the liquid phase and leave the solids or semi-solids adhering to the sides so that there is less than 2.5 centimeters of waste on the bottom of the container. In this example, the Agency would not view the container as an empty container because the total

amount of material in the container would be greater than a 2.5 centimeter layer on the bottom. In spite of its imperfection, the Agency believes this definition is useful and can be made to work with only occasional interpretation for unusual situations. The Agency will render such interpretations when necessary to implement this definition and the related regulatory provisions. Even so, the Agency is open to any advice on how to improve this definition and specifically solicits such advice during the comment period provided for this interim final rule.

2. *Compressed gas containers.* For compressed gas containers, the second part of the definition provides that an empty container is one which has been opened to atmospheric pressure.

3. *Containers that have held acutely hazardous materials.* For containers that have held any of the acutely hazardous materials listed in § 261.33(e), the third part of the definition provides that an empty container is one that has been triple rinsed with an appropriate solvent, or cleaned using another method shown to achieve equivalent removal or, in the case of a container, has had the inner liner removed. This part of the definition of empty container has been shifted from 40 CFR 261.33(c)(1)–(3) in order to combine in one section of the regulations all provisions dealing with the issue of when container residues must be managed as hazardous waste. It was explained in the preamble to the May 19, 1980, regulations. See 45 FR 33115–16.

C. Interim Final Promulgation

Because the first two parts of the definition of empty container (§ 261.7(b)(1)–(2)) are new regulatory provisions, EPA is promulgating them in interim final form and will accept comments on them for 90 days. Section 261.7(a), which clarifies when container residues must be managed as hazardous wastes, also is new and also is being promulgated in interim final form with a 90 day comment period. EPA believes that use of advance notice and comment procedures for these amendments would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting these regulations in interim final form (see 5 U.S.C. 553(b)(B)). Section IV.D. below, entitled "Effective Date," discusses the confusion and disruption that would result were EPA not to promulgate these amendments in interim final form with a November 19, 1980, effective date.

The third part of the definition of empty container, § 261.7(b)(3), is merely recodified and is being promulgated as a final regulation.

D. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the new § 261.7 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be counterproductive for the regulated community and the public.

The regulatory provisions that these amendments modify take effect on November 19, 1980. Beginning on that date, in the absence of the effectuation of these amendments, all hazardous waste residues down to very minute quantities arguably would have to be managed as hazardous wastes. The clarifications in § 261.7 have been requested by the regulated community and will eliminate the confusion that has existed concerning when container residues must be managed as hazardous wastes. Section 261.7 does not subject any persons or activities to regulation which were not covered by the May 19 regulations. The section only serves to exclude certain residues of hazardous waste from regulatory control. Persons handling excluded residues thus need not comply with any hazardous waste management requirements for those residues. In the absence of this new section, these persons arguably would have to comply with all applicable regulations in Parts 261 through 265, 122 and 124 on November 19, 1980. This lessening of regulatory requirements surely is not the type of revision to regulations that Congress had in mind when it provided a six-month delay between the promulgation and the effective date of revisions to regulations. Consequently the Agency is setting an effective date of November 19, 1980.

E. Options Under Consideration for Regulating Hazardous Waste Residues in "Empty" Containers

As discussed in section IV.B. of this preamble, EPA believes that the small amount of hazardous waste residue that remains in individual empty, unrinsed containers does not pose a substantial hazard to human health or the environment. EPA is concerned, however, that drum reconditioners and other facilities that clean large numbers of "empty" containers may accumulate and treat or dispose of significant amounts of unregulated residues which may pose a substantial hazard to human health or the environment. EPA is currently considering three options to deal with this possible problem.

1. *Triple rinsing for all containers.* The option which EPA considers the most equitable and which appears to offer the greatest protection to human health and the environment is to require that all containers be triple rinsed before they are considered empty. This would ensure that the only residues that would be unregulated under the Part 262 through 265, 122 and 124 regulations would be trace amounts that would remain in a container after triple rinsing or an equivalent cleaning operation. If a container that hadn't been triple rinsed were transported, it would have to be accompanied by a manifest, unless the residue in the container were excluded from regulation by the small quantity generator exclusion (§ 261.5) or by the use, re-use, recycling or reclamation provisions of § 261.6, and could only be shipped to a treatment, storage or disposal facility with a permit or interim status. Under § 261.7(a), as promulgated today, container residues (other than those of acutely hazardous materials listed in § 261.33(e)) of less than an inch are not subject to the RCRA Subtitle C requirements. If all containers had to be triple rinsed before the remaining residue were not regulated, the potential for environmental and health problems that exists under the current version of § 261.7 could be eliminated.

2. *Regulation of the residue when it is removed from the container.* Another option EPA is considering is to add the words "until it is removed from the container" to § 261.7(a)(1) so that the section would read: "Any hazardous waste remaining in a container or an inner liner removed from a container that is empty, as defined in paragraph (b) of this section, is not subject to regulation under Parts 261 through 265, Part 122 or 124 of this chapter or to the notification requirements of Section 3010 of RCRA until it is removed from the container."

Such language would mean that the hazardous waste residue in an empty container could be transported, treated, stored or disposed of without being subject to RCRA regulation while it remained in the container, but that the residue would be regulated if it were removed from the container. This solution would be less burdensome to the regulated community than requiring triple rinsing of all containers that have held hazardous waste, but it would not offer as much protection of human

health and the environment because residues that remained in empty containers would be unregulated. It would require facilities about which EPA is most concerned, i.e., those container cleaning facilities which accumulate large amounts of container residues, to properly manage the residues as hazardous wastes once they were removed from the container. EPA would consider the person who removed the waste to be the generator. Persons who removed only small quantities of residues could qualify for the small quantity generator exclusion, if they also did not have large quantities of other hazardous wastes. One problem with this approach, though, would be how persons removing residues from empty containers that had been shipped to them would receive notice that the residues were hazardous wastes because, until their removal, the residues would be unregulated, and thus could be shipped without a manifest while they remained in their containers.

3. *Limitation on the amount of unregulated residue.* A third option EPA is considering is to regulate only persons who handle large amounts of hazardous waste residue in, or removed from, empty containers. The Agency could accomplish this by limiting the amounts of unregulated residue a person could manage during a particular period of time without becoming subject to hazardous waste management controls. All container residues handled by persons who regularly deal with large amounts of such residues could be regulated.

EPA solicits comments and data on whether the residues left unregulated by § 261.7 may pose a substantial hazard to human health or the environment and, if so, whether commenters favor one of the three options outlined above, or some other alternative to deal with the problem.

V. Clarification of 40 CFR 261.33

Section 261.33(c) lists containers that hold residues of certain acutely hazardous commercial chemical products, manufacturing chemical intermediates, and off-specification products as hazardous wastes if and when they are discarded or intended to be discarded. EPA is making certain clarifying changes to this section.

A. Clarifying Changes Including Regulation of Residues Rather Than Containers

First, as mentioned above, today's amendments move the provisions of § 261.33(c)(1)–(3) to § 261.7(b). Second, EPA also is changing the remaining wording of § 261.33(c) and the title of § 261.33 to clarify that it is the hazardous material residue in a container, rather than the container itself, that is controlled under the regulations if and when the residue is discarded or intended to be discarded. This avoids the problems that can result from a literal reading of the regulations if the container, rather than the residue, is considered a hazardous waste. Read literally, for example, § 262.34(a) would require that a container, if the container itself were considered a hazardous waste, be placed within another container for temporary accumulation.

This change to the wording of § 261.33(c), although merely a clarification of the Agency's intent in the May 19, 1980, regulations, does alter the substance of the requirement in one respect. Although § 261.33(a) implies that any amount of a listed acutely hazardous material is a hazardous waste when it is discarded or intended to be discarded, § 261.33(c) in the May 19 regulations implies that a container or liner that previously held an acutely hazardous material listed in § 261.33(e) becomes a hazardous waste only if and when the container or liner—as opposed to the hazardous waste residue—is "discarded or intended to be discarded." Under one reasonable interpretation of § 261.33(c), a container which is re-used by anyone or sent to a reconditioner for cleaning and subsequent re-use would not be subject to the hazardous waste management regulations because it was not "intended to be discarded." When the residue, rather than the container, is considered the hazardous waste, as it is under the amended § 261.33(c), a container holding a regulated residue, i.e., a container that is not "empty," that is sent to a reconditioner for cleaning and re-use must be accompanied by a manifest and may only be sent to a person with a RCRA permit or interim status for the treatment, storage or disposal of the waste in question. Because this amendment to § 261.33(c) may extend regulatory control to some persons whose activities were not previously regulated under RCRA, EPA is providing time for these persons to notify under Section 3010 of RCRA and to submit permit applications pursuant to 40 CFR Part 122. See the discussion above in section II of this preamble entitled "Compliance Dates."

On the other hand, if the residue of an acutely hazardous waste listed in § 261.33 itself is to be beneficially used, re-used, recycled or reclaimed, it is not being discarded and it never becomes a hazardous waste and thus is not subject to the hazardous waste management regulations. For example, if a container that has held an acutely hazardous material listed in § 261.33(e) is to be re-used to contain the same material listed in § 261.33(e) that it previously held (and the initial residue is not discarded), or to contain some other material where the mixing of the other material with the residue of the § 261.33(e) material constitutes a beneficial use or re-use of that residue, then the acutely hazardous residue in the container or liner is not discarded and thus is not a hazardous waste. EPA has added a "comment" to § 261.33(c) to remind readers of the regulation that unless residues are beneficially used or re-used, or legitimately recycled or reclaimed, or are being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, EPA considers the residue to be intended for discard and thus a hazardous waste.

B. Interim Final Promulgation

EPA believes that use of advance notice and comment procedures for the clarification to § 261.33(c) would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting this change in interim final form (see 5 U.S.C. 553(b)(B)). Delay in promulgating this clarification could cause significant harm to the regulated community and the general public. Without this clarification, confusion exists over whether the provisions of § 261.33(a) or § 261.33(c) govern container residues of acutely hazardous materials that are discarded or intended to be discarded. EPA intended that all such residues be controlled as hazardous wastes, but, as discussed above, one reasonable interpretation of § 261.33(c) is that such residues are not considered hazardous wastes if the containers that hold such residues are not discarded. To give notice to the regulated community of how EPA intended § 261.33(c) to work, and to protect the public against the possible mismanagment of the acutely hazardous material residues that may remain in unrinsed containers that are re-used, EPA is promulgating its clarification to § 261.33(c) in interim final form. EPA will accept comments on this change for 90 days and will make any further changes deemed necessary as a result of those comments.

C. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. EPA

agrees that the amendment to § 261.33(c) should take effect six months after its promulgation. The amendment will subject some people to the hazardous waste management regulations whose activities were not subject to regulation under the May 19, 1980, regulations. Two classes of people may be brought under regulation for the first time by this amendment. The first class of people are those who for the first time will be considered generators. These are people whose only hazardous wastes are container residues of acutely hazardous materials (that are discarded) from containers that are re-used. Although it was not EPA's intent to allow these residues to go unregulated under the May 19 regulations, EPA agrees that a reasonable reading of § 261.33(c) would so allow. Thus, the change to that section will bring some people under the hazardous waste management regulatory system for the first time as generators and these persons need time to plan to meet the regulatory requirements of Part 262.

The other class of people affected by today's amendment are owners and operators of container cleaning facilities which receive containers which are not considered empty under new § 261.7, i.e., which hold residues of regulated acutely hazardous materials. They will, under the interpretation of § 261.33(c) discussed above, be considered treatment, storage or disposal facilities for the first time under today's amendment. The owners and operators of these facilities will have to prepare to meet the applicable Part 265 standards, if they are eligible for interim status.

The effective date for today's amendment to § 261.33(c) is May 25, 1981. Section II of this preamble, entitled "Compliance Dates" sets forth the dates by which persons who are subject to regulation for the first time by today's amendment to § 261.33(c) or who wish to handle wastes newly regulated by today's clarification must notify EPA and submit a new or revised Part A permit application.

Until the amendment to § 261.33(c) is effective, the provisions of § 261.33(c), as promulgated on May 19, 1980, will remain in effect. Until the amendment to § 261.33(c) is effective, persons handling residues of acutely hazardous materials in containers that are not discarded or intended to be discarded will not be considered subject to Part 262 through 265, 122 and 124 requirements.

VI. Special Small Quantity Provisions

If any container is not considered empty under § 261.7(b), then the hazardous waste remaining in the container is subject to full regulation unless the generator of the waste qualifies for the special requirements for hazardous waste generated by small quantity generators established in § 261.5 or for one of the other special provisions in the regulations.

In response to numerous comments and questions on § 261.5, EPA has amended it in a separate rulemaking. Containers and inner liners are no longer specifically mentioned in the amended § 261.5 because of the change to § 261.33(c) discussed above. Because EPA considers the residue of the acutely hazardous material, rather than the container or inner liner, to be the hazardous waste, § 261.5 no longer specifies a number of containers or an amount of inner liners containing § 261.33(e) residues that a small quantity generator may generate and still come within the special requirements. See § 261.5(c)(3) and § 261.5(c)(4), May 19, 1980.

Under amended § 261.5, a generator with § 261.33(c) container residues is subject to full Subtitle C regulation if the amount of such hazardous waste residue he generates in a calendar month exceeds an exclusion level specified in § 261.5. If the sum of all of his acutely hazardous waste, including his § 261.33(c) residues, is less than 1 kilogram, that waste is excluded from regulation unless he generates more than 1000 kilograms of other hazardous waste in a calendar month, in which case all of his acutely hazardous waste is also subject to regulation that month. If he generates more than one kilogram of acutely hazardous waste in a calendar month, including § 261.33(c) residues, all of that hazardous waste is regulated. Container residues of other than § 261.33(e) materials that are subject to regulation because they measure more than one inch in an individual container (see § 261.7) must be counted toward the 1000 kilogram exclusion in § 261.5. The preamble to the amendments to § 261.5 discusses the application of that section in further detail.

VII. Use, Re-use, Recycling and Reclamation Provisions

There is an important distinction to be drawn between wastes listed in § 261.33 and other listed wastes, with respect to the re-use provisions of the regulations. The use, re-use, recycling, and reclamation provisions of § 261.6 do not apply to any materials listed in § 261.33, including container residues, because § 261.6 only applies to hazardous waste, and materials listed in § 261.33 become hazardous wastes only when they are discarded or are intended to be discarded. Thus, these materials are not hazardous wastes if they are used, re-used, recycled or reclaimed.

On the other hand, hazardous waste container residues, other than those listed in § 261.33, which are regulated because they are in containers that are not empty, i.e., which don't meet the provisions of § 261.7(b) (1) or (2), can qualify for the special requirements in § 261.6 just as any other hazardous waste can.

VIII. Container Cleaning Operations

Some persons have read the definition of treatment in § 260.10 to encompass all container cleaning operations. Commenters were particularly concerned that the triple rinsing or other cleaning operations prescribed in § 261.33(c) (1) and (2) constituted treatment of the hazardous waste which adhered to the container.

A. Triple Rinsing

Triple rinsing, a procedure sanctioned in the regulations, is carried out with the express purpose of removing the waste from the container. The usual intent is simply to remove the waste and not to treat it, and the procedure is not usually "designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize . . ." it. Therefore, most triple rinsing does not meet the definition of treatment in Section 1004 of RCRA and § 260.10, and is, therefore, not subject to the requirements of Parts 264 and 265. The rinsate, however, is a hazardous waste if it meets one of the characteristics or if it contains a listed waste which remains subject to regulations via the mixing rule. See § 261.3(a)(2)(ii). Also, any treatment of the rinsate would almost certainly meet the definition of treatment in RCRA and such secondary treatment operations would be subject to the requirements of Parts 264 and 265.

B. Other Forms of Container Cleaning

Forms of container cleaning other than triple rinsing may constitute treatment because the intent and design of the operations involve not only removal of the waste from the container but also modification of the physical or chemical composition or character of the waste to render it less hazardous or non-hazardous. This is the case where drums are incinerated or "burned out." In this case, the burning operation is designed to remove and destroy the wastes. In other cases, chemicals are added to drums, again, not only to remove the waste, but to react with the wastes and destroy or detoxify them. These processes meet the RCRA definition of "treatment" and are thus

subject to the requirements of Parts 264 and 265.

C. Facilities Which Handle Only "Empty" Containers

Section 261.7 clarifies that container cleaning facilities which handle only "empty" containers are not currently subject to regulation unless they generate a waste that meets one of the characteristics in Subpart D. The mixture rule (§ 261.3(a)(2)(ii)) is inapplicable to any residues excluded from regulation by 261.7(a)(1), which would be the only residues with which a facility that handles only "empty" containers would deal.

D. Facilities Which Handle "Non-Empty" containers

Any facility that handles any "non-empty" containers, i.e., containers which don't meet the definition of "empty" in 261.7(b), is managing regulated hazardous waste.

If the facility is the generator of the hazardous waste, i.e., the container residue, then the small quantity generator exclusion (§ 261.5) and the non-permitted accumulation time provision (§ 262.34) are available to the facility as a generator. Unless one of those provisions is applicable, though, all treatment, storage and disposal of regulated residues must be carried out in accordance with all applicable Part 264 or 265 standards at a facility with a permit or interim status. Note also that any regulated residue of a listed hazardous waste is subject to the mixture rule, so that rinse waters or solvents containing these residues also are considered hazardous wastes, unless they have been delisted in accordance with the procedures in §§ 260.20 and 260.22.

IX. Request for Comments

EPA invites comments on all aspects of the interim final amendments promulgated today and all of the issues discussed in this preamble. The Agency is providing a 90-day comment period and will carefully consider all comments received during that period.

X. Regulatory Impacts

The clarification to § 261.33(c) will bring a small number of additional persons under regulation as generators, transporters, or owners or operators of treatment, storage or disposal facilities. EPA is unable to estimate the number of such persons and thus cannot accurately estimate the increased impacts of the clarification.

The effect of the promulgation of § 261.7 is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by clarifying that container residues of hazardous waste, measuring an inch or less, except residues of certain acutely hazardous materials, are not subject to the regulations. The Agency is unable to estimate these cost and impact reductions.

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

1. Add the following new section to Part 261:

§ 261.7 Residues of hazardous waste in empty containers.

(a)(1) Any hazardous waste remaining in either (i) an empty container or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under Parts 261 through 265, or Part 122 or 124 of this chapter or to the notification requirements of Section 3010 of RCRA.

(2) Any hazardous waste in either (i) a container that is not empty or (ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under Parts 261 through 265, and Parts 122 and 124 of this chapter and to the notification requirements of Section 3010 of RCRA.

(b)(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified in § 261.33(c) of this chapter, is empty if:

(i) all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, *e.g.*, pouring, pumping, and aspirating, and

(ii) no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held a hazardous waste identified in § 261.33(c) of this chapter is empty if:

(i) the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

2. Revise the title of § 261.33 and paragraph (c) to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

* * * * *

(c) Any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) of this section, unless the container is empty as defined in § 261.7(b)(3) of this chapter. [Comment: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, EPA considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.]

§ 265.173 [Amended]

3. Delete the first sentence of the "Comment" to § 265.173.

§ 262.51 [Amended]

4. Change the reference for triple rinsing in § 262.51 from "§ 262.33(c)" to "§ 261.7(b)(3)."

[FR Doc. 80-36682 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 261

[SWH-FRL 1680-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final amendment to rule and request for comments.

SUMMARY: The Environmental Protection Agency is amending the hazardous waste management regulations (40 CFR 261.4) to provide that arsenical-treated wood or wood products which are generated by persons who utilize such treated wood or wood products for the woods' intended end use, and which wood constitutes hazardous waste solely because it fails the test for the characteristic of Extraction Procedure toxicity, is not subject to regulation under 40 CFR Parts 262 through 265 or Parts 122 through 124 or the requirements of Section 3010 of RCRA until the Agency's Office of Pesticide Programs has made further progress in its pending review of arsenical wood preservatives. This amendment is being made as a result of public comments.

DATES: Effective date: November 19, 1980.

Comment date: The Agency will accept comments on this amendment until January 26, 1981. Any person may request a hearing on this interim final rule by filing a request with John P. Lehman, whose address appears below, by December 16, 1980. The request must contain the information prescribed in § 260.20(d) of this chapter.

ADDRESSES: Comments on this amendment should be sent to Docket Clerk, Docket No. "3001/Arsenical-Treated Wood," Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The public docket for this interim final rule is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. The public docket is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, as part of its initial regulations implementing Section 3001 of the Resource Conservation and Recovery Act (RCRA), the Agency promulgated rules governing the identification and listing of hazardous wastes. Among other things, these rules identified four characteristics of hazardous wastes which are to be used by all persons generating solid waste to determine if the solid waste is hazardous. (See 40 CFR Part 261, Subpart C.) Pursuant to 40 CFR Part 261, a solid waste is a hazardous waste if it is not excluded by a provision of 40 CFR 261.4(b) and it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 40 CFR Part 261.

One of the characteristics which EPA has determined makes a solid waste a hazardous waste is described as "Extraction Procedure Toxicity" or "EP Toxicity" and appears at 40 CFR 261.24. In December, 1978, the Agency proposed the EP toxicity characteristic as a criterion for identifying hazardous waste. No comments relating to arsenical-treated wood or wood products were submitted in response to the proposal. In May, 1980, the Agency promulgated the EP toxicity characteristic as a final regulation. In July, 1980, approximately one and one-half years after the initial proposal of the EP toxicity characteristic, the American Wood Preservers Institute (AWPI) first brought to the Agency's attention the possibility that some wood treated with arsenical-based preservatives exhibits the characteristic of EP toxicity and, therefore, might be classified as hazardous waste when disposed of. AWPI requested a delay in the regulations' effective date with respect to arsenical-treated wood.

II. AWPI Comments Relating to Arsenical-Treated Wood

AWPI has requested that the Agency delay action to classify treated wood as a hazardous waste and to "clarify its regulations to indicate that all types of preserved wood, including arsenical treated wood, do not constitute hazardous wastes when disposed." AWPI's request is based on two arguments:

(1) the method of disposing of wood treated with arsenical preservatives is identical to registered uses of the treated wood in place—ground contact; and (2) the Office of Solid Waste should await the outcome of the Agency's Office of Pesticide Programs' pending examination of wood preservatives. The Office of Pesticide Programs is reviewing the risks and benefits associated with the use of arsenical wood preservatives as part of the Federal Insecticide, Fungicide and Rodenticide Rebuttable Presumption Against Registration (RPAR) process. (Arsenical wood preservatives are pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) because they are applied to control fungi and termites.) The RPAR review will determine whether pesticide registrations of arsenical wood treatments should be modified or canceled.

AWPI commented that application of EPA's hazardous waste regulations to arsenical preservative-treated wood on November 19, 1980, would have unintended consequences. For example, construction companies, utility companies, and other buyers of treated wood could become generators of hazardous waste. AWPI supported its request that the Agency await the completion of the RPAR review by pointing out that the RPAR review would "examine all the environmental effects of the use of treated wood, including ground and marine installation of arsenical-treated wood, such as utility poles and pilings." AWPI contended that the RPAR review would reveal that ground-contact uses of arsenical-treated wood would present no environmental hazard and, consequently, that disposal of arsenical-treated wood by land burial presents no hazard.

III. Amendments to 40 CFR 261.4 With Respect to Arsenical-Treated Wood and Wood Products

The Agency does not believe that implementation of RCRA regulations that affect toxic chemicals that are undergoing review for possible regulation by a program administered by EPA other than the Office of Solid Waste necessarily should await the conclusion of the other program's review. In particular, the Agency believes that substantial differences in the statutory mandates of RCRA and of FIFRA militate against deferring RCRA regulation until the completion of RPAR reviews. RPAR reviews do not include analyses of waste streams and, thus, do not relate directly to concerns about hazardous waste. For example, information relating to the risks associated with the use of creosote- and pentachlorophenol-based wood preservatives would have little direct relevance to the hazards of disposal of wastewater treatment sludges from wood preserving processes that use creosote and/or pentachlorophenol. These wastes are listed in 40 CFR

261.32. In a separate notice, the Agency in fact has announced that it will not wait until the completion of the RPAR review of wood preservatives before proceeding with regulation of these wastes under RCRA. 45 FR 74885, 74888–89 (November 12, 1980). The Agency recognizes, however, that in unusual instances it may be appropriate to defer action under RCRA while RPAR reviews are generating information.

The Agency agrees with AWPI that the RPAR review of wood preservatives could provide meaningful information with respect to the risks presented by disposal of arsenical-treated wood and that it is appropriate for the Agency to defer temporarily the full impact of characterizing arsenical-treated wood as a hazardous waste until the pending RPAR review has progressed further. As AWPI has pointed out, ground-contact uses of arsenical-treated wood present risks similar to the risks associated with land burial of discarded arsenical-treated wood. Therefore, the RPAR review, which will analyze to some extent the risks associated with ground-contact uses of arsenical-treated wood, is likely to produce information directly relevant to the risk associated with disposal of arsenical-treated wood by land burial. In addition, the RPAR review may provide guidance with respect to waste management procedures which might be specifically appropriate to disposal of arsenical-treated wood.

Although the Agency believes it appropriate to await further progress of the RPAR review of wood preservatives before making Subtitle C requirements completely applicable to disposal of arsenical-treated wood, the Agency believes that Subtitle C requirements should apply immediately to arsenical-containing wood wastes such as wastes generated by sawmills or by facilities at which arsenical preservatives are applied to wood. These arsenical-treated wood wastes are likely to be generated and managed in larger, more concentrated quantities than wastes generated by ultimate users of arsenical-treated wood. Moreover, these generators' wastes might be in a form—such as sawdust—which presents risks dissimilar to those which the RPAR review will analyze. In addition, disposal of freshly-treated wood by sawmills or processors is likely to present greater hazards than wood which has been treated years prior to use and disposal. For these reasons, today's action provides a temporary exclusion from Subtitle C only for arsenical-treated wood wastes generated by persons who utilize such treated wood or wood products for the woods' intended end use.

For the reasons set forth above, the Agency has decided to defer, for an estimated three to six-month period, applying RCRA Subtitle C requirements to discarded arsenical-treated wood or wood products following these materials' intended end use. It should be noted, however, that the decision to await further progress of the RPAR review does not signify that discarded arsenical-treated wood and wood products will be excluded permanently from all Subtitle C requirements if the Agency's Office of Pesticide Programs determines that certain ground uses of arsenical wood preservatives do not present unreasonable risks. Such a determination under FIFRA does not necessarily mean that the pesticide is not hazardous; it may mean that the economic benefits of a pesticide are great enough that the risk should be tolerated. This conclusion—if it is reached by the Agency's Office of Pesticide Programs—would not necessarily indicate that the disposal of arsenical-treated wood at the expiration of its useful life should not be subject to safeguards imposed under RCRA.

IV. Interim Final Promulgation

This temporary exclusion from Subtitle C requirements is being promulgated in interim final form. Thus, discarded arsenical-treated wood or wood products following these materials' intended end use is no longer subject to Subtitle C requirements on the basis of the arsenical treatments. This amendment is final for purposes of the 90-day petition deadline under Section 7006 of RCRA. The Agency, however, is soliciting comments on the amendment.

The Agency is making this amendment effective immediately because public comment has been submitted and because delay in promulgating the temporary exclusion could cause significant harm to the regulated community. Since it was public comment which prompted the Agency to promulgate this amendment, the policy underlying solicitation of comments prior to the effectiveness of regulations has been substantially satisfied. The purpose of the temporary exclusion is to defer imposing the full Subtitle C requirements for only a few months to await further development of pertinent information. During this period, the most likely sources of possible hazard—entities such as sawmills—will be subject to Subtitle C. Thus, the Agency believes that there will be sufficient protection of public health. Accordingly, good cause exists for adopting this regulation in interim final form (*see* 5 U.S.C. § 553(b)(B)).

V. Solicitation of Public Comments

The Agency invites further public comments with respect to any aspect to today's action. In particular, the Agency would welcome comments relevant to the following issues:

1. What percentage of these wastes fail the test for the characteristic of EP toxicity? Do any particular types of arsenical-treated wood products fail more that others? What are the results of particular EP toxicity tests for arsencial-treated wood products? (These data should be currently available, in light of generators' obligations under 40 CFR § 262.11 to determine whether their waste is hazardous.)[1]

2. What are the usual disposal practices for these wastes? What percentage of this material is reused, what are the types of reuses, and what percentage of reuses constitute direct land application of the material?

3. How many generators which are not subject to the small generator exclusion (40 CFR 261.5) would become generators of hazardous waste but for the promulgation of today's exclusion? What is the volume of waste that they generate?

4. What modifications, if any, in the waste management standards established in 40 CFR Part 264 and 40 CFR Part 265 should be made if the Agency were to conclude that the disposal of arsenical-treated wood by all generators should be subject to regulation under Subtitle C?

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR Part 261 amended as follows:

1. In § 261.4, Exclusions, add the following paragraph (b)(8):

§ 261.4 [Amended]

(b) * * *

(8) Solid waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and

[1] Today's action, of course, does not excuse generators of these wastes from their past obligation to determine if their wastes are hazardous and, in the case of large quantity generators, to have notified the Agency as of August 18, 1980.

wood products for these materials' intended end use.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 1681-7]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today finalizing its lists of commercial chemical products, off-specification products, and intermediates that, when disposed of, are considered to be hazardous wastes (40 CFR 261.33). These lists were initially promulgated in interim final form on May 19, 1980 (45 FR 33124–33127). In addition, the Agency is deleting ethylenediamine (Hazardous Waste No. P053), N-nitrosodiphenylamine (Hazardous Waste No. P083), oleyl alcohol condensed with 2 moles of ethylene oxide (Hazardous Waste No. P086), 1,2-propanediol (Hazardous Waste No. P100), and chlorodibromomethane (Hazardous Waste Nos. U040 and U065) from the list of generically-named chemicals in § 261.33 (e) and (f), and making a number of technical changes in the listing descriptions of other listed, generically-named chemicals. Appendix VIII of Part 261 is being amended to reflect these deletions, and to add one compound whose name was omitted.

The Agency also is removing all trade names from the lists of § 261.33 (e) and (f), but clarifying that the scope of § 261.33 (e) and (f) includes in addition to the commercially pure grades of the chemicals, all technical grades, and all formulated products in which the listed chemical is the sole active ingredient. Finally, the Agency is responding to certain questions regarding the interpretation of § 261.33, and indicating that additional questions will be answered in a forthcoming Regulatory Interpretation Memoranda (RIM).

DATES: Effective Date: November 19, 1980. However, persons handling materials covered by this regulation which are formulated products in which a listed chemical is the sole active ingredient, and who have not yet notified the Agency due to a misunderstanding of the scope of the listings must do so by February 23, 1980. Facilities managing such wastes still may qualify for interim status if they submit a Part A permit application by May 25, 1981 (or, in the case of facilities which already have applied to manage other identified or listed hazardous wastes, if they submit an amended Part A application by that date). Interim status standards for all such facilities become effective on May 25, 1981.

ADDRESSES: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, and is available for viewing from 9 a.m. to 4 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact David Friedman, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–9187.

For information in implementation contact:

Region I—Denis Huebner, Chief, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223–5777.

Region II—Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264–0504/5.

Region III—Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–0980.

Region IV—James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881–3016.

Region V—Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6148.

Region VI—R. Stan Jorgensen, Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767–2645.

Region VII—Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3307.

Region VIII—Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837–2221.

Region IX—Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–4606.

Region X—Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1260.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, the Agency promulgated as § 261.33 of the regulations a list of 361 commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. (45 FR 33124–33127.) Section 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these 361 chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers and inner liners of containers that have held 122 of these chemicals (those listed in paragraph (e)), if they are discarded or intended to be discarded, unless they have been triple rinsed with an appropriate solvent or have been decontaminated in an equivalent manner. (§ 261.33(c).) The regulation also covers materials not specifically listed by name, so long as they "have the generic name listed in paragraphs (e) or (f) . . . ." (§ 261.33 (a), (b), (c), and (d).)

The Agency received a large number of comments on this regulation. The comments for the most part challenged the Agency's decision to list particular substances as hazardous wastes. Some questions also were raised regarding the scope of the regulation, particularly with respect to trade products containing a listed chemical but not specifically listed themselves. Comments also were submitted concerning the difficulty of determining the chemical constituents of unlisted trade name products. Finally, many questions have been received regarding the interpretation of § 261.33.

We are setting forth in this preamble our disposition of all listings of particular substances, and a summary of the basis for our decision.[1] We also are clarifying the scope of coverage of trade products, and providing guidance as to how to determine whether a given tradename product is regulated under this section. We also are responding to certain of the interpretative questions raised regarding § 261.33. Additional questions will be answered in a forthcoming Regulatory Interpretation Memoranda (RIM).

[1] We also are indicating the appropriate conforming amendments to Appendix VIII to Part 261.

I. Finalization of Chemical Product Names in § 261.33 (e) and (f)

A. The changes made in response to comments on specific listings are described summarily below. More detailed explanations are contained in the revised Background Document.

EPA hazardous waste No.	Compound name	Action taken	Reason
P019 and U160	2-Butanone peroxide (Methyl ethyl ketone peroxide)	Deleted from § 261.33(e). Remains in § 261.33(f). Added (R) designation.	2-Butanone peroxide and methyl ethyl ketone peroxide, synonyms for the same compound, were mistakenly included in both the § 261.33 (e) and (f) lists. This compound does not meet the criteria for listing as an acutely hazardous waste. However, the compound's oral (rat) LD50 of 484 mg/kg qualifies it for continued inclusion in § 261.33(f). Moreover, the compound is reactive, since it is an oxidizer.
P025	1-(p-Chlorobenzoyl)-5-methoxy-2-methylindole-3-acetic acid.	Moved from § 261.33(e) to § 261.33(f)	After evaluating the data supplied by the commenter which indicated that the correct oral (rat) LD50 value for the subject compound (also known as indomethacin) is 1100 mg/Kg, not the cited 12 mg/Kg, the Agency concluded that waste does not pose an acute hazard. However, since the Agency's Carcinogen Assessment Group has concluded that substantial evidence of carcinogencity exists for indomethacin, the waste will remain listed under § 261.33(f) as U245.
P032	Cyanogen bromide	Moved from § 261.33(e) to § 261.33(f)	The LC50 value cited in the May 19th Background Document was incorrect. According to new data, the compound does not meet the criteria for listing as an acutely toxic waste. However, cyanogen bromide's inhalation (rat) LC50 of 4.35 mg/l/hr—only slightly less toxic than the standard for an acutely hazardous waste—qualifies it for inclusion as a hazardous waste. It thus remains listed under § 261.33(f) as U246.
P035	2,4-Dicholorophenoxyacetic acid [2,4-D]	Moved from § 261.33(e) to § 261.33(f) and listing clarified.	Re-evaluation of this listing in light of data received during the comment period indicates that the compound does not meet the criteria for listing as an acute hazard. Since the toxicity of 2,4-D is well recognized (for example, it is a National Interim Primary Drinking Water Standard pollutant), the compound is listed as a hazardous waste under § 261.33(f) as U240. The active pesticide ($C_6H_3(Cl_2)OCH_2COO$ moiety) is marketed commercially in a number of chemical forms. To clarify that the listing is meant to cover these various forms, the listing description has been clarified by explicitly including 2,4-D's salts and esters.
P052	Ethylcyanide	Deleted	Listing duplicated P101 listing.
P053	Ethylenediamine	Deleted	LDLo value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a substantial hazard to human health or the environment even if the waste is mismanaged, so the waste therefore has been deleted from § 261.33.
P061	Hexachloropropene	Moved from § 261.33(e) to § 261.33(f)	The LC50 value cited in the May 19th Background Document was incorrect. According to new data, the compound does not meet the criteria for listing as an acutely toxic waste. However, hexachloropropene's inhalation (rat) LC50 of 2.4 mg/l/hr—only slightly less toxic than the standard for an acutely hazardous waste—qualifies it for inclusion as a hazardous waste. It thus remains listed under § 261.33(f) as U243.
P079	Nitrogen peroxide	Deleted	Listing duplicated P078 listing.
P083	N-Nitrosodiphenylamine	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. No information is presently available which shows that the waste poses a significant threat to human health or the environment even if it was mismanaged and it therefore has been deleted from § 261.33.
P086	Oleyl alcohol condensed with 2 moles of ethylene oxide.	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a significant threat to human health or the environment even if the waste is mismanaged. This conclusion is supported by the decision of the Food & Drug Administration to permit the use of this compound as an indirect food additive.
P090	Pentachlorophenol	Moved from § 261.33(e) to § 261.33(f)	After reviewing in more detail the available studies, the Agency has concluded that pentachlorophenol does not meet the criteria for an acutely hazardous waste (see Listing Background Document for Wood Preserving, response to comments, November 1980). However, its toxicity is well recognized and the waste will remain listed under § 261.33(f) as U242.
P100	1,2-Propanediol	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a significant hazard to either human health or the environment even if the waste is improperly managed. This decision is further supported by the Food & Drug Administration's approval of this compound as a direct food additive.

I. *Finalization of Chemical Product Names in § 261.33 (e) and (f)*—Continued

A. The changes made in response to comments on specific listings are described summarily below. More detailed explanations are contained in the revised Background Document.

EPA hazardous waste No.	Compound name	Action taken	Reason
P117	Thiuram	Moved from § 261.33(e) to § 261.33(f) and listing changed to clarify the specific waste being regulated.	According to the NIOSH "Registry of Toxic Effects of Chemical Substances", thiuram is a synonym for bis(dimethylthiocarbamoyl) disulfide. Comments were received which indicated that other compounds were also known as "thiurams". We have accordingly changed the listing "thiuram" to clarify that the intended compound is "bis(dimethylthiocarbamoyl) disulfide". Secondly, the LDLo data cited in the May 19th Background Document was incorrect. According to the new data, the waste does not meet the standard for an acutely hazardous waste. However, bis(dimethylthiocarbamoyl) disulfide's synergistic action with alcohol could pose a substantial hazard to human health if the waste was mismanaged and, as a result, contaminated drinking water. Thus the compound has been listed in § 261.33(f) as U244.
U040 and U065	Chlorodibromomethane and Dibromochloromethane	Deleted	After reevaluating the available environmental and toxicological information, the Agency has concluded that the information is not conclusive enough to justify retaining the listing. Pending receipt of additional data, the waste has been removed from inclusion under § 261.33.
U044	Chloroform	Deleted (I) designation	Mistakenly included. Chloroform does not have a flash point below 60°C.
U100	Dimethylnitrosamine	Deleted	Acutely toxic and remains listed as P082.
U104	2,4-Dinitrophenol	do	Acutely toxic and remains listed as P048.
U154	Methanol	Changed to (I) designation	After considering the comments received, the Agency has concluded that it has insufficient information to justify listing methanol for toxicity. However, since it has a flash point of 11°C, it will remain listed under § 261.33(f) as an ignitable waste.
U161	Methyl isobutyl ketone	Changed to (I) designation	After considering the comments received, the Agency has concluded that it has insufficient information to justify listing methyl isobutyl ketone for toxicity. However, since it has a flash point of 22.8°C, it will remain listed under § 261.33(f).
U197	Quinones	Changed to p-benzoquinone	As the May 19th Background Document indicated, the Agency's available toxicological data referred to p-benzoquinone only. The original listing of "Quinones" thus was over-inclusive. We are accordingly revising the listing description. Appendix A to the May 19th listing Background Document summarizes adverse health and environmental effects associated with p-benzoquinone.
U202	Saccharin	Added to listing ". . . and salts."	The May 19th Background Document was intended to include both the parent and its salts, since normal commercial use includes (and is known to include) both forms. In light of this common usage, we do not believe that any notice and comment issues are present. The arguments that saccharin is not carcinogenic were not deemed persuasive enough by the Agency to warrant deletion from § 261.33 list. That saccharin poses a significant carcinogenic hazard is amply demonstrated by the warnings that are required by the Food & Drug Administration to appear on any food to which saccharin is added.
U229	Trichlorofluoromethane	Deleted	Listing duplicated U121 listing.
U238	Urethane	Listing description modified	The original listing of urethane has been changed to read "ethyl carbamate (urethan)" to indicate more clearly that the listing does not refer to either the polymers commonly known as "polyurethanes" or their precursors.
U239	Xylene	Changed to (I) designation	Xylene was mistakingly listed as toxic instead of as ignitable. While xylene does not appear to pose a sufficient toxicity hazard for listing as a toxic waste, as the May 19th Background Document indicated, xylene is an ignitable waste due to its flash point of 27°C.

B. In addition to the above changes made in response to comments, the following changes, described summarily below, have been made as a result of the Agency's review of the interim final regulations.

EPA hazardous waste No.	Compound name	Action taken	Reason
P006	Aluminum phosphide	Added (T) designation	In addition to its reactivity toward water (indicated in the May 19th Background Document), the waste is also acutely toxic because of its toxicity. The (T) designation had been omitted inadvertently.
P030	Cyanide salt mixtures not otherwise specified	Modified listing description	Clarify the meaning of the term "cyanides" in light of a comment which indicated that the listing might be misunderstood.
P055	Ferric cyanide	Deleted	Listing duplicated P030 listing.

I. *Finalization of Chemical Product Names in § 261.33 (e) and (f)*—Continued

EPA hazardous waste No.	Compound name	Action taken	Reason
P065	Mercury fulminate	Added (R) designation	The (R) designation was omitted inadvertently. While mercury fulminate is toxic (as the May 19th Background Document points out), it is also acutely hazardous because of mercury fulminate's explosive properties.
P080	Nitrogen tetroxide	Deleted	Listing duplicated P078 listing.
P091	Phenyl dichloroarsine	Deleted	Listing duplicated P036 listing.
P097	Phosphorothioic acid, O,O-dimethyl ester, O-ester with N,N-dimethyl benezene sulfonamide.	Listing corrected	The Agency had mistakenly listed this compound. It does not exist. The correct compound is "Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl] ester."
P112	Tetranitromethane	Changed to (R) designation	The (R) designation was inadvertently omitted. While tetranitromethane is toxic (as the May 19th Background Document points out), it is acutely hazardous because of tetranitromethane's explosive properties.
U001	Acetaldehyde	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, acetaldehyde's flash point of −37.8°C classes it as a hazardous waste by reason of ignitability.
U006	Acetyl chloride	Added (R) designation	The reactivity designation was mistakenly omitted from the listing, although the May 19th Background Document cited reactivity as a reason for listing.
U012	Aniline	Added (T) designation	In addition to aniline's ignitable properties, it is also toxic with an oral (rat) LD50 of 440 mg/kg (Merck Index).
U019	Benzene	Added (I) designation	As well as being toxic, this compound is highly flammable (10–12°C). (Merck Index.)
U033	Carbonyl fluoride	Added (R) designation	In addition to carbonyl fluoride's toxic properties, as the May 19th Background Document indicates, it also poses a hazard due to its reactivity.
U054	Cresylic acid	Deleted	Listing duplicated U052 listing, which now reads cresol and cresylic acid.
U055	Cumene	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, cumene poses an ignitability hazard due to its flash point of 44°C.
U074	1,4-Dichloro-2-butene	Added (I) designation	A review of the literature indicated that as well as being toxic, this compound is highly flammable (flash point of 27°C).
U085	1,2:3,4-Diepoxybutane	Listing corrected	Clarification, prefix omitted by mistake.
U117	Ethyl ether	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, ethyl ethers flash point of −45°C classified it as an ignitable waste.
U140	Isobutyl alcohol	Added (I) designation	This ignitability designation was mistakenly omitted. As the F005 Listing indicated, the waste posses a flash point of 28°C. (See discussion in section I. C. of this preamble.)
U152	Methacrylonitrile	Added (I) designation	As well as being toxic, this compound is highly flammable (12°C).
U153	Methanethiol	Added (I)	As well as being toxic, this compound is highly flammable (−18°C).
U156	Methyl chlorocarbonate	Added (I) designation	This designation was mistakenly omitted although the May 19th Background Document indicated that the waste presents a hazard due to ignitability. The waste in fact has a flash point of 12°C.
U162	Methyl methacrylate	Added (I) designation	This designation was mistakenly omitted from the regulation, although the May 19th Background Document indicates that the compound is ignitable. The waste, in fact, possesses a flash point of 10°C.
U175	N-Nitrosodi-n-propylamine	Deleted	Listing duplicated U111 listing
U194	n-Propylamine	Added (T) designation	The toxic designation was omitted mistakenly. Further discussion is contained in section I. C. of this preamble.
U223	Toluene diisocyanate	Added (R) designation	As well as being toxic, this compound is highly reactive. See discussion in 2. C. of this preamble.
U244	Toxaphene	Moved from § 261.33(f) to § 261.33(e)	Material has an oral (rat) LD50 of 40 mg/Kg; thus meeting the standards for an acutely hazardous waste. Its new hazardous waste number is P123.

C. Several comments were received which argued against the listing of a specific compound but were judged by the Agency to be nonpersuasive. These comments are summarized below along with the reason for our decision to retain the chemical in the § 261.33 lists.

EPA hazardous waste No.	Compound name	Reason
PO 56	Fluorine	This chemical was listed as intended. The hazardous material is flourine, the diatomic molecule F_2, not the polynuclear aromatic "fluorene" discussed in the comment. Since flourine has a reported inhalation (human) TCLo of .00035 mg/l/hr, which falls within the standards for an acutely hazardous waste, it will remain listed under § 261.33(e).
P107	Strontium sulfide	While the oral (rat) LD50 data cited in the May 19th Background Document was incorrect, the correct oral (human) TCLo data which was cited by the commenter—50 mg/Kg (Letter from Chemcial Products Corp., dated August 18, 1980)—confirms the agency's original classification of this waste as acutely hazardous.

EPA hazardous waste No.	Compound name	Reason
U007	Acrylamide	The Agency admits that the Health and Environmental Effects profile for acrylamide was unavailable for comment when the regulations were promulgated. However, the Agency strongly believes that sufficient information on the toxicity/carcinogenicity of this compound was presented in the listing Background Document for waste K014 to support the continued inclusion of acrylamide under § 261.33.
U030	4-Bromophenyl phenyl ether	The commenter claims that this compound is not in commerical use. Pending verification of the claim the compound will remain listed under § 261.33.
U037	Chlorobenzene	As was discussed in the Health and Environmental Effects Profile cited in the May 19th Background Document, chlorobenzene is absorbed from the gastrointestinal tract and is in part metabolized to chlorinated phenols. Although its acute toxicity is not very high, many chronic effects have been noted. Continued administration at low doses inhibits red blood cell formation, induces eosinophilia, and chromosome changes in the rat. Decreased spermatogenesis and other gonadal effects were also noted in male dogs and in female rats exposed to low doses. Chlorobenzene has also been found to be mutagenic in certain short term bioassays.
U075	Dichlorodifluoromethane	Commenter did not present any data to argue against the continued listing of dichlorodifluoromethane and the waste thus will remain listed. It should be noted that the Agency's overriding concern with this compound, as with all chlorinated fluorocarbons, relates to the fact that chlorinated fluorocarbons may indirectly cause skin cancer by depletion of the stratopheric ozone. For further information, the reader is referred to the Listing Background Document "Spent Halogenated and Non-Halogenated Solvents and Still Bottoms/Sludges From The Recovery Of Those Solvents."
U080	Dichloromethane	The Agency disagrees with the comment that dichloromethane does not pose a hazard if mismanged. Although the NCI sponsored bioassy studies have not been completed, EPA has found suggestive evidence of its carcinogencity. Therefore, while the Agency is revising the Background Document to indicate that dichloromethane is only a suspect carcinogen, it cannot ignore this preliminary finding particularly in light of the large quantity of this material in use and the likelihood of its being discarded. For further information the reader is referred to the Listing Background Document "Spent Halogenated and Non-Halogenated Solvents and the Still Bottoms/Sludges From the Recovery of these Solvents."
U102 and U107	Dimethyl phthalate (U102) and Di-n-octyl phthalate (U107).	While these compounds are not acutely toxic to man, they have been found to be teratogenic in rats, causing fetal resorbtion, gross abnormalities, and decreased fetal weight. Dimethyl phthalate is mutagenic in microbial assay systems. In addition, a recent report (Water Quality Criteria Document: Phthalate Esters, NTIS PB No. 81-117780) indicated that neurotoxic effects have been observed in workers exposed to mixtures of phthalates.
U121	Fluorotrichloromethane	Fluorotrichloromethane has been listed because of the danger it poses to the earth's ozone layer and thus its removal from the list of toxic chemicals under § 307 of the Clean Water Act is not germane to the reason it was listed as a hazardous waste.
U140	Isobutyl Alcohol	The Health and Environmental Effects Profile cited in the May 19, 1980 Background Document (Appendix A of the Listing Background Document) discusses and supports the listing of this waste as toxic. More specificially, oral administration in rats of relatively high concentrations of this substance resulted in biochemical and histologic liver changes. Liver carcinomas and sarcomas as well as mycloid leukemia have also been produced in this species. Additionally, this compound should also have been listed as ignitable in § 261.33(f), since the May 19, 1980 listing of waste F005 clearly indicates that the compound is ignitable. The waste, in fact, possesses a flash point 28°C. Isobutyl alcohol also will be added to Appendix VII of Part 261, from which it was omitted inadvertently.
U184	Pentachloroethane	Contrary to claims of the commenter, a Health and Environmental Effects Profile for this compound was published (Appendix A of §§ 261.31 and 261.32 Listing Background Documents, pp. 435-453. According to this profile, release of pentachloroethane to the environment poses a potential hazard to aquatic ecosystems. For example, according to the recent Water Quality Criteria Document (U.S. EPA, Ambient Water Quality Criteria: Chlorinated Ethanes. EPA 440/5-80-029. October 1980.), the maximum concentration that can be present in surface waters without danger to the exosystem is 38-87 μg/l. Pentachloroethane also is bioaccumulative, a futher reason for its continued listing.
U188	Phenol	The Agency strongly disagrees with the comment that mismanagement of waste phenol does not pose a hazard to human health. While the carcinogenicity of phenol has not been firmly established, both liver and kidney damage to humans will result from chronic exposure to phenol with death a potential consequence. In addition, the acute toxicity of phenol results in central nervous system depression with symptoms severe enough to earn phenol a toxicity rating of 'High' in Sax (*Dangerous Properties of Industrial Materials*, Fifth Edition, 1979, Van Nostrand Reinhold Co., New York). This standard reference indicates that "death or permanent injury may occur due to exposure at normal use . . .". Therefore, the Agency will continue to include phenol under § 261.33(f).
U194	n-Propylamine	While the commenter believes that compounds, such as this one, having an oral (rat) LD50 of 570 mg/kg are not toxic, the Agency disagrees. Other standard sources support the Agency's viewpoint. For example, "Clinical Toxicology of Commercial Products", (3rd ed.) considers compounds which have an oral LD50 (as determined using rats) in the range of 500 mg/kg to 5000 mg/kg to be toxic to moderately toxic; however, it should be noted that this compound is at the higher end of the range and would tend to be considered toxic rather than moderately toxic.
U207	Tetrachlorobenzene	The Health and Environmental Effects Profile cited in the May 19th Backgound Document discusses and supports the listing of all waste commercial chlorinated benzenes. Among the specific toxic effects of tetrachlorobenzene are its aquatic toxicity (14.5 μg/l) and bioconcentration factor (1800X). Since the commenter did not present any specific evidence or reasons for the Agency not to list tetrachlorobenzene as a hazardous waste, it will remain listed under § 261.33(f).
U212	2,3,4,6-Tetrachlorophenol	As stated in the Health Effects Profile for this compound, 2,3,4,6-Tetrachlorophenol is fetotoxic in rats, and inhibits both carbohydrate metabolism and the liver oxidase system. It also is bioaccumulative (bioaccumulation factor 1100). EPA has established 1 μg/l as the ambient water quality criterion based on organoleptic effects; 440 μg/l was established for the protection of aquatic life.
U220	Toluene	While toluene has a relatively low acute toxicity (oral [rat] LD50 of 5000 mg/Kg), as described in the cited Health and Environmental Effects Profile, low level chronic exposure to toluene has caused chromosome damage in humans and has led to the development of neuro-muscular disorders. Toluene has also reported to cause reproductive problems to female workers during occupational exposure.
U223	Toluene diisocyanate	The Agency believes that toluene diisocyanate (TDI) should continue to be listed as a hazardous waste when discarded. TDI exposure produces respiratory sensitization, and decreased lung function. Exposure to high concentrations can result in pulmonary edema and death. Additionally, the reaction of free isocyanate groups with water usually occurs very rapidly, is exothermic, and results in a possibly explosive release

EPA hazardous waste No.	Compound name	Action taken	Reason
			of toxic and potentially carcinogenic aromatic chemicals. Damage incidents of this type actually have occurred in waste management practice (see listing Background Document on Toluene Diisocyanate Production).
U226	1,1,1-Trichloroethane		No data was presented by the commenter to justify the contention that waste 1,1,1-trichloroethane does not pose a health hazard and should not be listed. As the bioassays described in the May 19th Appendix A Health and Environment Effects Profile indicate increased tumor production was noted in animals treated with 1,1,1-trichloroethane. In addition, *in vitro* transformation of rat embryo cells and subsequent firbosarcoma production by these cells when injected *in vivo*, also indicates that 1,1,1-trichloroethane has carcinogenic potential. It should also be noted that the Agency recently determined that 1,1,1-Trichloroethane should continue to be listed as a toxic pollutant under § 307(a) of the Clean Water Act.
U232 and U233	2,4,5-Trichlorophenoxyacetic acid and 2,4,5-Trichlorophenoxypropionic acid.		One commenter questioned the presence of these constituents on the § 261.33 list when the waste constituents are among the parameters measured by the characteristic of Extraction Procedure Toxicity (EP). We believe the concern is largely academic since discarded commercial chemical products consisting of these pesticides will undoubtedly contain concentrations many orders of magnitude above the EP levels.

D. The Agency received several comments indicating that a mistake had been made in converting from one set of units to another during the computation of inhalation toxicity values. We acknowledge that for a number of the compounds listed for acute inhalation toxicity, the conversions were errouneous so that the values given in the May 18th Background Document were incorrect. After recalculating the toxicity values, it was found that the following compounds still meet the criteria for lising as an acutely hazardous waste [inhalation (rat) LC50≤2 mg/l/hr or inhalation (human) LCLo ≤ 2 mg/l]. The recalculated raw data and the correct values are presented below. The formulas used in converting inhalation toxicity values are:

$ppm = mg/m^3 \times (22.4/MW)$
$mg/l = (mg/m^3)/1000$
$mg/l = (MW)(ppm)/(22.4)(1000)$
(mg/l/minute)/60=mg/l/hour
(mg/l/hour[s]) × (hour[s]=mg/l/hour
MW=Molecular weight

EPA hazardous waste No.	Compound name	Molecular weight	Cited value (mg/l/hr	Correct value (mg/l/hr)	Published value [source of data]
P005	Allyl alcohol	58	6.8	0.06	TCLo(hum) 25ppm [N]
P016	Bis(chloromethyl) ether	115	0.49	0.25	LC50(rat) 7ppm/7 hr [S]
P017	Bromoacetone	137	0.95	0.53	TCLo(hum) 3.2mg/l/10min [D]
P028	alpha-Chlorotoluene	127	0.003	1.70	LC50(rat) 150ppm/2hr [S]
P031	Cyanogen	52	0.16	0.81	LC50(rat) 350ppm/hr [S]
P033	Cyanogen chloride	61	0.59	0.01	TCLo(hum) 10mg/m³ [S]
P056	Flourine	38	1.85	0.03	LC50(rat) 185ppm/hr [S]
P064	Isocyanic acid, methyl ester	41	0.20	0.004	TCLo(hum) 2ppm [N]
P066	Methomyl	162	0.77	0.56	LC50(rat) 77ppm [N]
P068	Methyl hydrazine	46	2.96	0.61	LC50(rat) 74ppm/4hr [S]
P073	Nickel carbonyl	171	0.73	0.12	LC50(rat) 240mg/m³/30min [S]
P096	Phosphine	34	0.44	0.07	LC50(rat) 11ppm/4hr [S]
P110	Tetraethyl lead	324	1.58	0.09	LC50(rat) 6ppm [S]
P118	Trichloromethanethiol		[1]	0.45	

[1] Listed in oral exposure column of Backgound Document instead of inhalation exposure column.
[N]=NIOSH Registry, [S]=Sax, [D]=DOT.

E. The Agency also received a number of inquiries regarding the specific nomenclature used in listing the generic chemical names, expressing confusion in certain cases because these compounds often go by a number of different names. In order to eliminate any confusion, the Agency has revised the listing descriptions in § 261.33 (e) and (f). The new lists contain only the International Union for Pure and Applied Chemistry (IUPAC) name and, where available, a cross-reference to the compound's commonly-used generic name. Since the IUPAC name is the one employed in *Chemical Abstracts*, the premier guide to the world's chemical literature, the Agency believes that the new listing descriptions will permit unambiguous compound identification.

In compiling the new regulation, we have listed each identified substance in alphabetical order but have retained the hazardous waste number used in the May 19th, interim final regulation. As a result, the § 261.33 (e) and (f) lists no longer numbered consecutively. Furthermore, where a generic name and the IUPAC name are cross-referenced, both will be listed under the same hazardous waste number, but will not appear consecutively in the regulation. We have chosen this method of organization because we believe additional (and unnecessary) confusion would result if new hazardous waste numbers were assigned to each waste, and because the existing numbers

already have been used for notification purposes.[2]

F. Asbestos.

The Asbestos Information Association submitted extensive comments arguing that the interim final listing of discarded asbestos (as hazardous waste U013) was procedurally defective for want of prior notice, and substantively unjustified because disposal is already regulated under the National Emission Standard for Asbestos (NESHAP) program (40 CFR Part 61).

We disagree that the interim final promulgation of the asbestos listing was procedurally defective. In our view, the opportunity to comment prior to any regulatory effect of § 261.33 cures any possible procedural deficiencies. The situation here thus is distinguishable from those in such cases as *U.S. Steel Corp.* v. *EPA*, 595 F.2d 207 (5th Cir., 1979), and *State of New Jersey* v. *EPA*, —— F.2d —— (D.C. Cir., 1980), where interim final regulations became effective prior to opportunity for comment.

We are, however, more impressed with the commenter's substantive argument. Certainly, duplicative regulation should be avoided where possible. We therefore are temporarily deferring final promulgation of the listing of asbestos while we investigate further the relationship of the NESHAP and the RCRA management standards, and the extent to which NESHAP facilities afford comparable environmental protection in managing waste asbestos. One possible approach would be to grant NESHAP facilities a RCRA permit by rule, and apply substantive RCRA standards to discarded asbestos up until the point of disposal. (See § 265.1(c) (1) and (2) and § 122.26 (a) and (b) where the Agency has adopted a comparable approach for hazardous wastes also subject to regulation under the Marine Protection, Research, and Sanctuaries Act, and the Underground Injection Control program approved or promulgated under the Safe Drinking Water Act). Another approach would be integration of the Toxic Substances Control Act asbestos-in-the-schools program, the NESHAP program, and RCRA standards into a single regulatory program. The NESHAP program will serve as a safeguard against pollution problems resulting from asbestos disposal pending final determination of this issue.

[2] The Agency has not, however, used IUPAC names in Appendix VIII of Part 261, in large part because no questions have been raised about the identity of the Appendix VIII compounds. The Agency will consider using IUPAC names in Appendix VIII if the regulated community believes that such a change is warranted.

II. Trade Names Included in the List and Scope of Coverage of the Regulation

A. The May 19th regulation applied to all discarded commercial chemical products, manufacturing chemical intermediates, off-specification species, and container and spill residues thereof "having the generic name listed in paragraphs (e) or (f) . . . ." [3] (§ 261.33(a), (b), (d).) The regulation thus clearly included more materials than those listed specifically in § 261.33(e) and (f). A footnote to both § 261.33(e) and (f) likewise indicated that the scope of coverage of these provisions was broader than materials listed by name: "The Agency included those trade names of which it was aware; an omission of a trade name does not imply that the omitted material is not hazardous. The material is hazardous if it is listed under its generic name."

Included in this list of generically-named materials were several hundred trade name products (for example, RAT AND MICE BAIT, RO–DETH, and SPOR–KIL). As the above-cited footnote indicates, these trade names are illustrative, and not the exclusive list of hazardous discarded trade name products. However, the form of the list confused a number of commenters, who questioned why other similarly-constituted products were not named. Other commenters complained that the lists in (e) and (f) operated in a commercially discriminatory manner because their products were included by name, while other comparable products were included only by reference.

In order to eliminate this confusion, the Agency has decided to remove all trade names from the list of generic names in § 261.33(e) and (f). Since no trade names now will appear in the regulation, the footnote to these provisions also will be deleted. As before, all trade name products having a listed generic name are included within the scope of the regulation.

B. Questions also have been raised as to the precise meaning of the regulatory language "having the generic name listed in paragraphs (e) or (f)." The Agency intends that this language include the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. This scope of coverage was expressed in the May 19th regulation where hundreds of such products were listed by name in § 261.33(e) and (f).[4] We also believe that this reading conforms to usual understanding. Commercial chemicals are almost never sold in pure form. Generally, a chemical need not be present at full strength for a product to have its intended effect, and so is diluted to the desired concentration. For practical purposes, however, the product is considered to be the chemical comprising its active portion. For example, persons purchasing the fungicide pentachlorophenol (U–242) do not normally receive a pure chemical, but rather a formulation (e.g., Permatox DP–2) in which the fungicide pentachlorophenol is the active ingredient. There is no doubt, however, that this trade product formulation is identified with the active chemical constituent. Another more homely example is the functional identity of aspirin and acetylsalicylic acid even though an aspirin is not pure active acetylsalicylic acid [5]

This understanding likewise is reflected in the principal journals cataloguing chemical substances. The NIOSH Registry (National Institute of Occupational Safety and Health, *Registry of Toxic Effects of Chemical Substances* (1978 ed.)), for instance, lists generic chemical names along with the synonymous commercial product trade name, explaining that "commercial product trade names are included . . . when they represent a single active chemical entity . . . ." (*id.* at xvii.) *The Farm Chemicals Handbook* (Meister Publishing Co., 1979 ed.), probably the basic reference source for information on the agricultural chemicals industry, likewise lists all trade products having a generically-named chemical as the sole active ingredient as "other names" for that chemical. Similarly, manufacturers of trade name products, in complying with reporting obligations under the Toxic Substances Control Act, voluntarily and routinely report trade names as synonyms for the pure generically-named chemical even though the trade product does not consist of the chemical in its pure form. See, e.g., Toxic Substances Control Act Chemical Substance Inventory, Volume II, p. 111 (Arasan, Arasan 70, Arasan 75, Arasan-M, Arasan 425, Arasan-SF, and Arasan 70–S Red listed as synonyms for thiuram); p. 113 (Arsodent listed as synonym for arsenic trioxide).

Public comment on the interim final regulation likewise reflected an

[3] Containers and liners are included insofar as they held a material "having the generic name listed in paragraph (e)." § 261.33(c).

[4] We are, however, adding appropriate clarifying language to the comment to § 261.33.

[5] Needless to say, neither aspirin nor acetylsalicylic acid are hazardous wastes when discarded.

understanding that discarded products containing a generically-named chemical as the sole (or in some cases even the principal) active ingredient were included by the regulation. The Dow Chemical Company, for instance, commented that the "same generic material" generally is sold under many different trademarks, listing as an example 38 chemical names, trade name products, and synonyms for 1,1,1-trichloroethane, widely-used as a solvent. Almost all of these trade names are not the pure chemical, but rather contain the chemical as the (or an) active ingredient.[6] USS Agri-Chemicals, another commenter, also indicated that trade products need not be identical in chemical composition to the generically-named chemical to be thought of as that chemical.

The approach outlined above—that products containing a generically listed chemical as the sole active ingredient are included within the scope of the regulation—has a number of significant advantages. First, the approach seems to reflect normal commercial understanding. Further, a potential unintended loophole for diluted formulations of generically-listed chemicals is eliminated. In addition, the regulation would have little practical effect, and would be at odds with usual understanding, if it were read as applying only to pure chemicals, since 100% pure chemicals are used only rarely in commercial practice.

There should be little question that single active ingredient products containing a generically-listed chemical as its active ingredient will usually and frequently be toxic and thus hazardous waste when discarded. The toxicity data contained in the May 19th Background Document indicates that most of the chemicals need be present in only low concentrations for the product to have toxic effects. We further believe that products which are identified with the generically-listed chemical because the chemical is the sole active ingredient will normally contain concentrations of the chemical far higher than necessary to produce toxic effects or will be present in combination with so-called inert ingredients which tend to magnify its toxic effects (*e.g.*, solvents and surfactants). The products mentioned as synonyms for 1,1,1 trichloroethane in Dow's comments, for example, contain over 90% of the generically-listed chemical. We also note that many of the trade products regulated under this section are pesticides or fungicides, produced for the express purpose of destroying plant or animal life. It is evident that such a substance, when discarded, meets the RCRA definition of hazardous waste.

We recognize that this regulation is deficient in its failure to address products containing mixtures of chemicals listed in § 261.33 as their ingredients. Because these products are normally not thought of as having a 1:1 relationship to a listed compound, we do not think that we can address the problems by means of final or interim final Agency action. We do intend, however, in the near future to propose an amendment to § 261.33 to cover active ingredient mixtures.

We also recognize that some persons legitimately may not have realized the intended scope of coverage of § 261.33 and thus may have not notified the Agency that they generate these materials, nor, in the case of treaters, storers or disposers, filed a permit application as required by sections 3010 and 3005(e) of RCRA. Since this failure is, at least in part, due to an ambiguity in EPA's regulations, we do not believe it fair to penalize persons who thus far have failed to comply. Consequently, persons handling products covered by §261.33 which consist of a listed chemical as the sole active ingredient, and who have not yet notified the Agency, must do so by February 23, 1981.[7] Facilities managing these wastes still may qualify for interim status if they submit a Part A permit application (or an amended Part A application, in the case of facilities which already have applied to manage other identified or listed hazardous wastes) by May 25, 1981.

C. A number of comments indicated that trade name products listed specifically in the May 19th interim final regulation do not contain a generically-named chemical as the sole active ingredient, or (in some cases) do not refer to any specific product formulation but rather to a family of products. Since § 261.33 as promulgated and finalized applies only to sole active ingredient formulations, these products are not presently hazardous wastes when discarded. Trade name products in this category are D–CON (formerly listed as waste P001), PERMATOX (formerly listed as waste P090) and SANTOPHEN (formerly listed as waste P090). The Agency notes, however, that a number of products marketed under these general trademarks are in fact products which consist of a compound listed in § 261.33(e) or (f) as its sole active ingredient, and where this is the case, that trade name product is a hazardous waste when discarded. Examples are PERMATOX DP–2 (technical grade pentachlorophenol), and SANTOPHEN–20 (sole active ingredient pentachlorophenol).

Comments also reflected confusion about two of the other trade name products listed in the May 19th regulation. Even though trade names are now being removed from the text of the regulation, we believe it is important to clarify our intent. One commenter indicated that it handles a product called 'METAFOS 164', a trademark for the surfactant sodium hexametaphosphate. The commenter believed this product was included under the May 19th listing of 'METAFOS', a trade product listed in both the NIOSH Registry and the *Farm Chemicals Handbook* as a synonym for methyl parathion (P071). In fact, the similiarity of product names appears coincidental. The Agency, as stated, intends to regulate only trade products containing a listed chemical (in this case methyl parathion) as the sole active ingredient, so that the product METAFOS 164 would not be a hazardous waste when discarded.

A second, similar situation arose with respect to another listed product, 'THIONEX'. THIONEX is a trade product name for the pesticide endosulfan (waste P050) (*Farm Chemicals Handbook*), and so is a hazardous waste when discarded. According to a commenter, however, an identically-named but chemically very different product also exists. Obviously, only the product consisting of the pesticide endosulfan is a hazardous waste when discarded. Confusion caused by name similarity should be addressed by determining the identity of a product's active ingredient.

III. The Problem of Identifying Which Discarded Trade Name Products Are Hazardous

The Agency is aware that many persons handling commercial products have found it difficult to determine whether these materials are hazardous wastes when discarded because the product's chemical composition is not always readily obtainable. Manufacturers in many cases have been reluctant or have refused to divulge this information, in part because of concern

[6] Dow also commented that discarded products containing chemicals measured by the characteristic of EP toxicity should not be listed in § 261.33, again reflecting an understanding that products containing a § 261.33 (e) or (f) chemical as an active ingredient are covered by the regulation, since the comment would have little point if a pure chemical was involved (*viz.* a material containing 100% 2,4,5-T would always fail the test for the characteristic of EP toxicity).

[7] Under Section 3010 of RCRA, persons who already have notified that they handle any identified or listed hazardous waste are not required to notify again.

for revealing proprietary data. In the face of these difficulties, some commenters went so far as to suggest that generators not be responsible for complying with the regulations unless they have actual knowledge of the product's chemical composition.

The Agency is taking a number of steps to deal with this problem. First, we are now preparing a directory of chemical products [8] which are hazardous wastes when discarded. The Directory will include generic names, other names by which the chemicals are known (e.g., myrbane oil for nitrobenzene) and the names of trade products which are regulated under § 261.33 as well as the applicable hazardous waste number. The Directory will be advisory, not part of the regulation itself, so that a defendant in an enforcement proceeding will still be able to show that a waste listed in the Directory is not a waste listed in § 261.33. By the same token, absence of a product name from the Directory is not a defense. The Agency will expand the Directory over time to try and provide as complete a list as possible.

A second form of Agency guidance is the recently-implemented RCRA Industry Assistance Hotline. Persons unsure whether the trade name product they are discarding is a hazardous waste may call this toll-free number and provide the name of the product. The Agency will then provide advice as to whether the product is a hazardous waste and its basis for the determination. As with the Directory, the Agency's response will be advisory, not a formal regulatory action. The hotline telephone number is 800–424–9346 (in Washington, D.C., 554–1404).

We also expect that persons unsure of the hazardousness of a given product will call the manufacturer of the product. Although manufacturers may not want to give out the formula for their products, the Agency believes it is reasonable to expect suppliers to inform customers if disposal of the product is regulated under either § 261.33(e) or § 261.33(f). Customers of course have the option of refusing to deal further with a supplier who will not divulge this information.

We disagree strongly with the suggestion that generators lacking actual knowledge of a product's chemical composition remain unregulated. Such a standard provides a strong incentive for generators not to determine whether discarded products are hazardous wastes. One purpose of RCRA is to require closer attention and inquiry into the potentially hazardous nature of discarded materials, and generators of discarded trade products are no exception. Suggestions for further means of dealing with the question of identity are, however, solicited.

[8] SW–884, "Directory of Trade Name Products and Synonyms" will be available from Mr. Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair St., Cincinnati, Ohio 45268 (telephone number 513–684–5362).

IV. Interpretative Issues

As noted above, most interpretative questions involving § 261.33 will not be resolved until publication of a forthcoming RIM. Certain questions, however, can be dealt with in this preamble.

A. Are solid wastes that contain one or more of the chemicals listed in § 261.33 hazardous wastes by virtue of containing these materials?

Solid wastes which simply contain one of the chemicals listed in § 261.33 are not thereby hazardous. Where EPA intends to list such wastes, it will do so by listing them in §§ 261.31 and 261.32. This intention is in fact clearly expressed in the comment to § 261.33(d) which is part of the promulgated regulation. The purpose of § 261.33 is to regulate only the listed chemical products and intermediates and their trade name equivalents (and certain off-specification variants, emptied containers [9] and spill residues and debris thereof) as hazardous wastes when they are discarded or intended to be discarded.

However, when a solid waste is mixed with one of these discarded materials, the resulting mixture is a hazardous waste until delisted (with certain exceptions set forth in § 261.5(h)). See § 261.3(a)(2)(ii). As set out in § 261.3(b)(2), the solid waste becomes a hazardous waste when the mixing of the § 261.33 chemical takes place either as an act of discarding that chemical or the time the chemical is intended for later discard (*i.e.*, at the time the § 261.33 substance becomes a hazardous waste).

There are many situations where a solid waste becomes a hazardous waste by virtue of the actual or intended discarding of materials listed in § 261.33. Some of these situations are:

1. Where excess, expired or otherwise unwanted commercial chemical products or manufacturing chemical intermediates are discarded by discharging them into a wastewater stream or are discarded by being mixed into other solid wastes.

2. Where off-specification materials that, if they met specification, would be commercial chemical products or manufacturing chemical intermediates, are discarded by being discharged into a wastewater stream or discarded by being mixed into other solid wastes.

Where contaminated residues or debris from the clean-up of spills of listed chemicals are discarded by being mixed into other solid wastes.

B. Are the commercial products and manufacturing chemical intermediates listed in § 261.33 subject to regulation if they are used, reused, recycled or reclaimed in lieu of being discarded?

No. A commercial chemical product or manufacturing chemical intermediate listed in § 261.33 is a hazardous waste only if discarded or intended to be discarded. If it continues to be used or sold, it is not being discarded and therefore is not a hazardous waste. If it is an off-specification material and is reprocessed, recycled or reclaimed it is not being discarded and therefore is not a hazardous waste. Thus the provisions of § 261.6(b) are not intended to apply to reuses of § 261.33 materials, since in such cases the materials are never discarded. The reference in § 261.6(b) to wastes "listed in subpart D" is confusing. Wastes listed in §§ 261.31 and 261.32 are the only wastes intended to be included.

There are numerous situations where the above interpretations apply. Some of these are:

1. Where a customer receives an off-specification product listed in § 261.33 and returns it to the manufacturer for reprocessing, the product is not being discarded and is not a hazardous waste.

2. Where a commercial product becomes excess inventory or outlives its expiration date in a wholesale or retail outlet or in the hands of a user and the supplier takes the product back for resale or reprocessing, the product is not being discarded by the wholesaler, retailer or user and is not a hazardous waste.

3. Where there is breakage of containers holding § 261.33 chemicals and the supplier takes back the affected chemicals, including recovered spilled chemicals, for repackaging or reprocessing, the chemicals are not being discarded and are not hazardous wastes. If, however, some of the spilled chemicals are discarded or intended to be discarded because they cannot be returned (*e.g.*, they are mixed with dirt or other materials), these spilled chemicals (and associated spill cleanup residues and debris) are hazardous wastes.

These are examples of common practice which EPA believes should be encouraged because they avoid discarding valuable materials and

[9] Regulation of containers which formerly held § 261.33 chemicals is addressed elsewhere in this Part X of the Federal Register.

thereby conserve resources, while at the same time avoiding the potential hazards associated with discarding of hazardous chemicals. The above practices also avoid causing many thousands of wholesalers, retailers and users from becoming generators of hazardous wastes because they will be able to return the materials for reuse instead of possibly discarding them. The Agency believes that many of these persons will be unfamiliar or not well acquainted with the regulations and may fail to properly perform the responsibilities of a generator if they have to discard the materials.

It is quite likely that, in some cases, a manufacturer or supplier will find it necessary to discard some portion of the materials returned to him because he is unable to reprocess, repackage, resell or use it. Where this occurs, that portion which is discarded becomes a hazardous waste when it is discarded or when a decision is made to discard the material. In this situation the manufacturer or supplier is the generator of a hazardous waste because he is the "person . . . whose act . . . produces hazardous waste . . ." (see the definintion of "generator" in § 260.10).

C. Are manufactured articles (such as battery and mercury vapor lights) that contain any of the chemicals listed in § 261.33 hazardous wastes by definition if they are discarded or intended to be discarded?

EPA intends that the materials listed in § 261.33 include only those commerical chemical products and manufacturing chemical intermediates that are known by the generic name of the chemicals listed in paragraphs (e) and (f) of that section. Manufactured articles that contain any of the chemicals listed in paragraphs (e) and (f) are rarely, if even, known by the generic name of the chemical(s) they contain and, therefore, are not covered by the § 261.33 listings. Should the Agency find it necessary to list any manufactured articles as hazardous wastes, it will initiate rulemaking to add these articles to § 261.33.

Date: November 20, 1980.

Douglas M. Costle,

Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Title 40, Part 261 of the Code of Federal Regulations is amended as follows:

1. Revise § 261.33 to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, containers, and spill residues thereof.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section.

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraphs (e) or (f) of this section.

(c) Any container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) of this section, unless:

(1) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; or

(2) The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(3) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this Section. [Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in paragraphs (e) or (f), such waste will be listed in either §§ 261.31 or 261.32 or will be identified as a hazardous waste by the characteristics set forth in Subpart C of this Part.]

(e) The commercial chemical products or manufacturing chemical intermediates, referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in § 261.5(e). [Comment: For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound only is listed for acute toxicity.] These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous waste No.	Substance
P023	Acetaldehyde, chloro-
P002	Acetamide, N-(aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide
P007	5-(Aminomethyl)-3-isoxazolol
P008	4-aAminopyridine
P009	Ammonium picrate (R)
P119	Ammonium vanadate
P010	Arsenic acid
P012	Arsenic (III) oxide
P011	Arsenic (V) oxide
P011	Arsenic pentoxide
P012	Arsenic trioxide
P038	Arsine, diethyl-
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust
P016	Bis(chloromethyl) ether
P017	Bromoacetone
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbamimidoselenoic acid
P022	Carbon bisulfide
P022	Carbon disulfide
P095	Carbonyl chloride
P033	Chlorine cyanide
P023	Chloroacetaldehyde
P024	p-Chloroaniline
P026	1-(o-Chlorophenyl)thiourea
P027	3-Chloropropionitrile
P029	Copper cyanides
P030	Cyanides (soluble cyanide salts), not elsewhere specified
P031	Cyanogen
P033	Cyanogen chloride
P036	Dichlorophenylarsine
P037	Dieldrin
P038	Diethylarsine
P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate
P041	Diethyl-p-nitrophenyl phosphate
P040	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	Diisopropyl fluorophosphate
P044	Dimethoate
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime
P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate

Hazardous waste No.	Substance
P082	Dimethylnitrosamine
P046	alpha, alpha-Dimethylphenethylamine
P047	4,6-Dinitro-o-cresol and salts
P034	4,6-Dinitro-o-cyclohexylphenol
P048	2,4-Dinitrophenol
P020	Dinoseb
P085	Diphosphoramide, octamethyl-
P039	Disulfoton
P049	2,4-Dithiobiuret
P109	Dithiopyrophosphoric acid, tetraethyl ester
P050	Endosulfan
P088	Endothall
P051	Endrin
P042	Epinephrine
P046	Ethanamine, 1,1-dimethyl-2-phenyl-
P084	Ethenamine, N-methyl-N-nitroso-
P101	Ethyl cyanide
P054	Ethylenimine
P097	Famphur
P056	Fluorine
P057	Fluoroacetamide
P058	Fluoroacetic acid, sodium salt
P065	Fulminic acid, mercury(II) salt (R,T)
P059	Heptachlor
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene
P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-demethanonaphthalene
P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene
P060	Hexachlorohexahydro-exo,exo-dimethanonaphthalene
P062	Hexaethyl tetraphosphate
P116	Hydrazinecarbothioamide
P068	Hydrazine, methyl-
P063	Hydrocyanic acid
P063	Hydrogen cyanide
P096	Hydrogen phosphide
P064	Isocyanic acid, methyl ester
P007	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	Mercury, (acetato-O)phenyl-
P065	Mercury fulminate (R,T)
P016	Methane, oxybis(chloro-
P112	Methane, tetranitro- (R)
P118	Methanethiol, trichloro-
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	Methomyl
P067	2-Methylaziridine
P068	Methyl hydrazine
P064	Methyl isocyanate
P069	2-Methyllactonitrile
P071	Methyl parathion
P072	alpha-Naphthylthiourea
P073	Nickel carbonyl
P074	Nickel cyanide
P074	Nickel(II) cyanide
P073	Nickel tetracarbonyl
P075	Nicotine and salts
P076	Nitric oxide
P077	p-Nitroaniline
P078	Nitrogen dioxide
P076	Nitrogen(II) oxide
P078	Nitrogen(IV) oxide
P081	Nitroglycerine (R)
P082	N-Nitrosodimethylamine
P084	N-Nitrosomethylvinylamine
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite
P085	Octamethylpyrophosphoramide
P087	Osmium oxide
P087	Osmium tetroxide
P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	Parathion
P034	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	Phenol, 2,4-dinitro-
P047	Phenol, 2,4-dinitro-6-methyl-
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P036	Phenyl dichloroarsine
P092	Phenylmercuric acetate
P093	N-Phenylthiourea
P094	Phorate
P095	Phosgene
P096	Phosphine
P041	Phosphoric acid, diethyl p-nitrophenyl ester
P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl]ester
P043	Phosphorofluoric acid, bis(1-methylethyl)-ester
P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester
P089	Phosphorothioci acid, O,O-diethyl O-(p-nitrophenyl) ester
P040	Phosphorothioic acid, O,O-diethyl O- pyrazinyl ester
P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sullonyl)phenyl]ester
P110	Plumbane, tetraethyl-
P098	Potassium cyanide
P099	Potassium silver cyanide
P070	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	Propanenitrile
P027	Propanenitrile, 3-chloro-
P069	Propanenitrile, 2-hydroxy-2-methyl-
P081	1,2,3-Propanetriol, trinitrate- (R)
P017	2-Propanone, 1-bromo-
P102	Propargyl alcohol
P003	2-Propenal
P005	2-Propen-1-ol
P067	1,2-Propylenimine
P102	2-Propyn-1-ol
P008	4-Pyridinamine
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts
P111	Pyrophosphoric acid, tetraethyl ester
P103	Selenourea
P104	Silver cyanide
P105	Sodium azide
P106	Sodium cyanide
P107	Strontium sulfide
P108	Strychnidin-10-one, and salts
P018	Strychnidin-10-one, 2,3-dimethoxy-
P108	Strychnine and salts
P115	Sulfuric acid, thallium(I) salt
P109	Tetraethyldithiopyrophosphate
P110	Tetraethyl lead
P111	Tetraethylpyrophosphate
P112	Tetranitromethane (R)
P062	Tetraphosphoric acid, hexaethyl ester
P113	Thallic oxide
P113	Thallium(III) oxide
P114	Thallium(I) selenite
P115	Thallium(I) sulfate
P045	Thiofanox
P049	Thioimidodicarbonic diamide
P014	Thiophenol
P116	Thiosemicarbazide
P026	Thiourea, (2-chlorophenyl)-
P072	Thiourea, 1-naphthalenyl-
P093	Thiourea, phenyl-
P123	Toxaphene
P118	Trichloromethanethiol
P119	Vanadic acid, ammonium salt
P120	Vanadium pentoxide
P120	Vanadium(V) oxide
P001	Warfarin
P121	Zinc cyanide
P122	Zinc phosphide (R,T)

(f) The commercial chemical products or manufacturing chemical intermediates, referred to in paragraphs (a), (b), and (d) of this section, are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in § 261.5(a) and (f). [Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.] These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance
U001	Acetaldehyde (I)
U034	Acetaldehyde, trichloro-
U187	Acetamide, N-(4-ethoxyphenyl)-
U005	Acetamide, N-9H-fluoren-2-yl-
U112	Acetic acid, ethyl ester (I)
U144	Acetic acid, lead salt
U214	Acetic acid, thallium(I) salt
U002	Acetone (I)
U003	Acetonitrile (I,T)
U004	Acetophenone
U005	2-Acetylaminolluorene
U006	Acetyl chloride (C,R,T)
U007	Acrylamide
U008	Acrylic acid (I)
U009	Acrylonitrile
U150	Alanine, 3-[p-bis(2-chloroethyl)amino] phenyl-, L-
U011	Amitrole
U012	Aniline (I,T)
U014	Auramine
U015	Azaserine
U010	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-[((aminocarbonyl) oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-,
U157	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	Benz[c]acridine
U016	3,4-Benzacridine
U017	Benzal chloride
U018	Benz[a]anthracene
U018	1,2-Benzanthracene
U094	1,2-Benzanthracene, 7,12-dimethyl-
U012	Benzenamine (I,T)
U014	Benzenamine, 4,4'-carbonimidoylbis(N,N-dimethyl-
U049	Benzenamine, 4-chloro-2-methyl-
U093	Benzenamine, N,N'-dimethyl-4-phenylazo-
U158	Benzenamine, 4,4'-methylenebis(2-chloro-
U222	Benzenamine, 2-methyl-, hydrochloride
U181	Benzenamine, 2-methyl-5-nitro
U019	Benzene (I,T)
U038	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	Benzene, 1-bromo-4-phenoxy-
U037	Benzene, chloro-
U190	1,2-Benzenedicarboxylic acid anhydride
U028	1,2-Benzenedicarboxylic acid, [bis(2-ethylhexyl)] ester
U069	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	1,2-Benzenedicarboxylic acid, diethyl ester
U102	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester
U070	Benzene, 1,2-dichloro-
U071	Benzene, 1,3-dichloro-
U072	Benzene, 1,4-dichloro-
U017	Benzene, (dichloromethyl)-
U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	Benzene, dimethyl-(I,T)
U201	1,3-Benzenediol
U127	Benzene, hexachloro-
U056	Benzene, hexahydro- (I)
U188	Benzene, hydroxy-
U220	Benzene, methyl-
U105	Benzene, 1-methyl-1-2,4-dinitro-
U106	Benzene, 1-methyl-2,6-dinitro-
U203	Benzene, 1,2-methylenedioxy-4-allyl-
U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U090	Benzene, 1,2-methylenedioxy-4-propyl-
U055	Benzene, (1-methylethyl)- (I)
U169	Benzene, nitro- (I,T)
U183	Benzene, pentachloro-
U185	Benzene, pentachloro-nitro-
U020	Benzenesulfonic acid chloride (C,R)
U020	Benzenesulfonyl chloride (C,R)
U207	Benzene, 1,2,4,5-tetrachloro-
U023	Benzene, (trichloromethyl)-(C,R,T)
0234	Benzene, 1,3,5-trinitro- (R,T)
U021	Benzidine
U202	1,2-Benzisothiazolin-3-one, 1,1-dioxide
U120	Benzo[j,k]fluorene
U022	Benzo[a]pyrene
U022	3,4-Benzopyrene
U197	p-Benzoquinone
U023	Benzotrichloride (C,R,T)
U050	1,2-Benzphenanthrene
U085	2,2'-Bioxirane (I,T)
U021	(1,1'-Biphenyl)-4,4'-diamine
U073	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-

Hazardous Waste No.	Substance
U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-
U024	Bis(2-chloroethoxy) methane
U027	Bis(2-chloroisopropyl) ether
U244	Bis(dimethylthiocarbamoyl) disulfide
U028	Bis(2-ethylhexyl) phthalate
U246	Bromine cyanide
U225	Bromoform
U030	4-Bromophenyl phenyl ether
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	1-Butanamine, N-butyl-N-nitroso-
U035	Butanoic acid, 4-[Bis(2-chloroethyl)amino] benzene-
U031	1-Butanol (I)
U159	2-Butanone (I,T)
U160	2-Butanone peroxide (R,T)
U053	2-Butenal
U074	2-Butene, 1,4-dichloro- (I,T)
U031	n-Butyl alchohol (I)
U136	Cacodylic acid
U032	Calcium chromate
U238	Carbamic acid, ethyl ester
U178	Carbamic acid, methylnitroso-, ethyl ester
U176	Carbamide, N-ethyl-N-nitroso-
U177	Carbamide, N-methyl-N-nitroso-
U219	Carbamide, thio-
U097	Carbamoyl chloride, dimethyl-
U215	Carbonic acid, dithallium(I) salt
U156	Carbonochloridic acid, methyl ester (I,T)
U033	Carbon oxyfluoride (R,T)
U211	Carbon tetrachloride
U033	Carbonyl fluoride (R,T)
U034	Chloral
U035	Chlorambucil
U036	Chlordane, technical
U026	Chlornaphazine
U037	Chlorobenzene
U245	1-(p-Chlorobenzoyl)-5-methoxy-2-methylindole-3-acetic acid
U039	4-Chloro-m-cresol
U041	1-Chloro-2,3-epoxypropane
U042	2-Chloroethyl vinyl ether
U044	Chloroform
U046	Chloromethyl methyl ether
U047	beta-Chloronaphthalene
U048	o-Chlorophenol
U049	4-Chloro-o-toluidine, hydrochloride
U032	Chromic acid, calcium salt
U050	Chrysene
U051	Creosote
U052	Cresols
U052	Cresylic acid
U053	Crotonaldehyde
U055	Cumene (I)
U246	Cyanogen bromide
U197	1,4-Cyclohexadienedione
U056	Cyclohexane (I)
U057	Cyclohexanone (I)
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	Cyclophosphamide
U240	2,44-D, salts and esters
U059	Daunomycin
U060	DDD
U061	DDT
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one
U062	Diallate
U133	Diamine (R,T)
U221	Diaminotoluene
U063	Dibenz[a,h]anthracene
U063	1,2:5,6-Dibenzanthracene
U064	1,2:7,8-Dibenzopyrene
U064	Dibenz[a,i]pyrene
U066	1,2-Dibromo-3-chloropropane
U069	Dibutyl phthalate
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate
U070	o-Dichlorobenzene
U071	m-Dichlorobenzene
U072	p-Dichlorobenzene
U073	3,3'-Dichlorobenzidine
U074	1,4-Dichloro-2-butene (I,T)
U075	Dichlorodifluoromethane
U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide
U060	Dichloro diphenyl dichloroethane
U061	Dichloro diphenyl trichloroethane
U078	1,1-Dichloroethylene
U079	1,2-Dichloroethylene
U025	Dichloroethyl ether
U081	2,4-Dichlorophenol
U082	2,6-Dichlorophenol
U240	2,4-Dichlorophenoxyacetic acid, salts and esters

Hazardous Waste No.	Substance
U083	1,2-Dichloropropane
U084	1,3-Dichloropropene
U085	1,2:3,4-Diepoxybutane (I,T)
U108	1,4-Diethylene dioxide
U086	N,N-Diethylhydrazine
U087	O,O-Diethyl-S-methyl-dithiophosphate
U088	Diethyl phthalate
U089	Diethylstilbestrol
U148	1,2-Dihydro-3,6-pyradizinedione
U090	Dihydrosafrole
U091	3,3'-Dimethoxybenzidine
U092	Dimethylamine (I)
U093	Dimethylaminoazobenzene
U094	7,12-Dimethylbenz[a]anthracene
U095	3,3'-Dimethylbenzidine
U096	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U097	Dimethylcarbamoyl chloride
U098	1,1-Dimethylhydrazine
U099	1,2-Dimethylhydrazine
U101	2,4-Dimethylphenol
U102	Dimethyl phthalate
U103	Dimethyl sulfate
U105	2,4-Dinitrotoluene
U106	2,6-Dinitrotoluene
U107	Di-n-octyl phthalate
U108	1,4-Dioxane
U109	1,2-Diphenylhydrazine
U110	Dipropylamine (I)
U111	Di-N-propylnitrosamine
U001	Ethanal (I)
U174	Ethanamine, N-ethyl-N-nitroso-
U067	Ethane, 1,2-dibromo-
U076	Ethane, 1,1-dichloro-
U077	Ethane, 1,2-dichloro-
U114	1,2-Ethanediylbiscarbamodithioic acid
U131	Ethane, 1,1,1,2,2,2-hexachloro-
U024	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U003	Ethanenitrile (I, T)
U117	Ethane,1,1'-oxybis- (I)
U025	Ethane, 1,1'-oxybis[2-chloro-
U184	Ethane, pentachloro-
U208	Ethane, 1,1,1,2-tetrachloro-
U209	Ethane, 1,1,2,2-tetrachloro-
U218	Ethanethioamide
U227	Ethane, 1,1,2-trichloro-
U043	Ethene, chloro-
U042	Ethene, 2-chloroethoxy-
U078	Ethene, 1,1-dichloro-
U079	Ethene, trans-1,2-dichloro-
U210	Ethene, 1,1,2,2-tetrachloro-
U173	Ethanol, 2,2'-(nitrosoimino)bis-
U004	Ethanone, 1-phenyl-
U006	Ethanoyl chloride (C,R,T)
U112	Ethyl acetate (I)
U113	Ethyl acrylate (I)
U238	Ethyl carbamate (urethan)
U038	Ethyl 4,4'-dichlorobenzilate
U114	Ethylenebis(dithiocarbamic acid)
U067	Etylene dibromide
U077	Ethylene dichloride
U115	Ethlene oxide (I,T)
U116	Ethylene thiourea
U117	Ethyl ether (I)
U076	Ethylidene dichloride
U118	Ethylmethacrylate
U119	Ethyl methanesulfonate
U139	Ferric dextran
U120	Fluoranthene
U122	Formaldehyde
U123	Formic acid (C,T)
U124	Furan (I)
U125	2-Furancarboxaldehyde (I)
U147	2,5-Furandione
U213	Furan, tetrahydro- (I)
U125	Furfural (I)
U124	Furfuran (I)
U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-
U126	Glycidylaldehyde
U163	Guanidine, N-nitroso-N-methyl-N'nitro-
U127	Hexachlorobenzene
U128	Hexachlorobutadiene
U129	Hexachlorocyclohexane (gamma isomer)
U130	Hexachlorocyclopentadiene
U131	Hexachloroethane
U132	Hexachlorophene
U243	Hexachloropropene
U133	Hydrazine (R,T)
U086	Hydrazine, 1,2-diethyl-
U098	Hydrazine, 1,1-dimethyl-
U099	Hydrazine, 1,2-dimethyl-

Hazardous Waste No.	Substance
U109	Hydrazine, 1,2-diphenyl-
U134	Hydrofluoric acid (C,T)
U134	Hydrogen fluoride (C,T)
U135	Hydrogen sulfide
U096	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U136	Hydroxydimethylarsine oxide
U116	2-Imidazolidinethione
U137	Indeno[1,2,3-cd]pyrene
U245	Indomethacin
U139	Iron dextran
U140	Isobutyl alcohol (I,T)
U141	Isosafrole
U142	Kepone
U143	Lasiocarpine
U144	Lead acetate
U145	Lead phosphate
U146	Lead subacetate
U129	Lindane
U147	Maleic anhydride
U148	Maleic hydrazide
U149	Malononitrile
U150	Melphalan
U151	Mercury
U152	Methacrylonitrile (I,T)
U092	Methanamine, N-methyl- (I)
U029	Methane, bromo-
U045	Methane, chloro- (I,T)
U046	Methane, chloromethoxy-
U068	Methane, dibromo-
U080	Methane, dichloro-
U075	Methane, dichlorodifluoro-
U138	Methane, iodo-
U119	Methanesulfonic acid, ethyl ester
U211	Methane, tetrachloro-
U121	Methane, trichlorofluoro-
U153	Methanethiol (I,T)
U225	Methane, tribromo-
U044	Methane, trichloro-
U121	Methane, trichlorofluoro-
U123	Methanoic acid (C,T)
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-
U154	Methanol (I)
U155	Methapyrilene
U154	Methyl alcohol (I)
U029	Methyl bromide
U186	1-Methylbutadiene (I)
U045	Methyl chloride (I,T)
U156	Methyl chlorocarbonate (I,T)
U226	Methylchloroform
U157	3-Methylcholanthrene
U158	4,4'-Methylenebis(2-chloroaniline)
U132	2,2'-Methylenebis(3,4,6-trichlorophenol)
U068	Methylene bromide
U080	Methylene chloride
U122	Methylene oxide
U159	Methyl ethyl ketone (I,T)
U160	Methyl ethyl ketone peroxide (R,T)
U138	Methyl iodide
U161	Methyl isobutyl ketone (I)
U162	Methyl methacrylate (I,T)
U163	N-Methyl-N'-nitro-N-nitrosoguanidine
U161	4-Methyl-2-pentanone (I)
U164	Methylthiouracil
U010	Mitomycin C
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-
U165	Naphthalene
U047	Naphthalene, 2-chloro-
U166	1,4-Naphthalenedione
U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'diyl)]-bis (azo)bis(5-amino-4-hydroxy)-,tetrasodium salt
U166	1,4,Naphthaquinone
U167	1-Naphthylamine
U168	2-Naphthylamine
U167	alpha-Naphthylamine
U168	beta-Naphthylamine
U026	2-Naphthylamine, N,N'-bis(2-chloro-methyl)-
U169	Nitrobenzene (I,T)
U170	p-Nitrophenol
U171	2-Nitropropane (I)
U172	N-Nitrosodi-n-butylamine
U173	N-Nitrosodiethanolamine
U174	N-Nitrosodiethylamine
U111	N-Nitroso-N-propylamine
U176	N-Nitroso-N-ethylurea
U177	N-Nitroso-N-methylurea
U178	N-Nitroso-N-methylurethane

Hazardous Waste No.	Substance
U179	N-Nitrosopiperidine
U180	N-Nitrosopyrrolidine
U181	5-Nitro-o-toluidine
U193	1,2-Oxathiolane, 2,2-dioxide
U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro- ethyl)amino]tetrahydro-, oxide 2-
U115	Oxirane (I,T)
U041	Oxirane, 2-(chloromethyl)-
U182	Paraldehyde
U183	Pentachlorobenzene
U184	Pentachloroethane
U185	Pentachloronitrobenzene
U242	Pentachlorophenol
U186	1,3-Pentadiene (I)
U187	Phenacetin
U188	Phenol
U048	Phenol, 2-chloro-
U039	Phenol, 4-chloro-3-methyl-
U081	Phenol, 2,4-dichloro-
U082	Phenol, 2,6-dichloro-
U101	Phenol, 2,4-dimethyl-
U170	Phenol, 4-nitro-
U242	Phenol, pentachloro-
U212	Phenol, 2,3,4,6-tetrachloro-
U230	Phenol, 2,4,5-trichloro-
U231	Phenol, 2,4,6-trichloro-
U137	1,10-(1,2-phenylene)pyrene
U145	Phosphoric acid, Lead salt
U087	Phosphorodithioic acid, 0,0-diethyl-, S-methylester
U189	Phosphorous sulfide (R)
U190	Phthalic anhydride
U191	2-Picoline
U192	Pronamide
U194	1-Propanamine (I,T)
U110	1-Propanamine, N-propyl- (I)
U066	Propane, 1,2-dibromo-3-chloro-
U149	Propanedinitrile
U171	Propane, 2-nitro- (I)
U027	Propane, 2,2'oxybis[2-chloro-
U193	1,3-Propane sultone
U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U126	1-Propanol, 2,3-epoxy-
U140	1-Propanol, 2-methyl- (I,T)
U002	2-Propanone (I)
U007	2-Propenamide
U084	Propene, 1,3-dichloro-
U243	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	2-Propenenitrile
U152	2-Propenenitrile, 2-methyl- (I,T)
U008	2-Propenoic acid (I)
U113	2-Propenoic acid, ethyl ester (I)
U118	2-Propenoic acid, 2-methyl-, ethyl ester
U162	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U233	Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194	n-Propylamine (I,T)
U083	Propylene dichloride
U196	Pyridine
U155	Pyridine, 2-[(2-(dimethylamino)-2-thenylamino]-
U179	Pyridine, hexahydro-N-nitroso-
U191	Pyridine, 2-methyl-
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	Pyrrole, tetrahydro-N-nitroso-
U200	Reserpine
U201	Resorcinol
U202	Saccharin and salts
U203	Safrole
U204	Selenious acid
U204	Selenium dioxide
U205	Selenium disulfide (R,T)
U015	L-Serine, diazoacetate (ester)
U233	Silvex
U089	4,4'-Stilbenediol, alpha,alpha'-diethyl-
U206	Streptozotocin
U135	Sulfur hydride
U103	Sulfuric acid, dimethyl ester
U189	Sulfur phosphide (R)
U205	Sulfur selenide (R,T)
U232	2,4,5-T
U207	1,2,4,5-Tetrachlorobenzene
U208	1,1,1,2-Tetrachloroethane
U209	1,1,2,2-Tetrachloroethane
U210	Tetrachloroethylene
U212	2,3,4,6-Tetrachlorophenol
U213	Tetrahydrofuran (I)
U214	Thallium(I) acetate
U215	Thallium(I) carbonate
U216	Thallium(I) chloride
U217	Thallium(I) nitrate
U218	Thioacetamide
U153	Thiomethanol (I,T)
U219	Thiourea
U244	Thiram
U220	Toluene
U221	Toluenediamine
U223	Toluene diisocyanate (R,T)
U222	O-Toluidine hydrochloride
U011	1H-1,2,4-Triazol-3-amine
U226	1,1,1-Trichloroethane
U227	1,1,2-Trichloroethane
U228	Trichloroethene
U228	Trichloroethylene
U121	Trichloromonofluoromethane
U230	2,4,5-Trichlorophenol
U231	2,4,6-Trichlorophenol
U232	2,4,5-Trichlorophenoxyacetic acid
U234	sym-Trinitrobenzene (R,T)
U182	1,3,5-Trioxane, 2,4,5-trimethyl-
U235	Tris(2,3-dibromopropyl) phosphate
U236	Trypan blue
U237	Uracil, 5[bis(2-chloromethyl)amino]-
U237	Uracil mustard
U043	Vinyl chloride
U239	Xylene (I)
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester,

Appendix VIII [Amended]

2. In Appendix VIII of Part 261, delete the following compounds:

-Ethylenediamine

-N-Nitrosodiphenylamine

-.Oleyl alcohol condensed with 2 moles ethylene oxide

-1,2 Propanediol

Appendix VIII [Amended]

3. In Appendix VIII of Part 261, add the following constituent alphabetically:

-Iso butyl alcohol

These regulations are issued under the authority of Sections 1006, 2002(a) and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 USC 6905, 6912(a) and 6921.

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40 CFR Part 261

[SWH-FRL 1680-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Grant of temporary exclusions and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is today temporarily excluding solid wastes generated at several particular generating facilities from hazardous waste status. These temporary exclusions respond to delisting petitions submitted under 40 CFR 260.20 and 260.22 and are granted pursuant to 40 CFR 260.22(m). The effect of this action is to temporarily exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR 261, and from the management standards issued by EPA under Sections 3002 through 3006 of RCRA (40 CFR Parts 262 through 265 and 122 through 124 of this Chapter).

DATES: Effective date: November 19, 1980.

EPA will accept public comments on these temporary exclusions until January 26, 1981. Any person may request a hearing on these temporary exclusions by filing a request with John P. Lehman, whose address appears below, by December 17, 1980. The request must contain the information prescribed in § 260.20(d) of this chapter.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001/Delisting Petitions."

The public docket for these temporary exclusions is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460 and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Myles Morse, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C., (202) 755-9187.

SUPPLEMENTARY INFORMATION: On July 16, 1980 and November 12, 1980 as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published lists of hazardous wastes from non-specific and from specific sources. See 40 CFR §§ 261.31 and 261.32 (45 FR 47832-47836 and 74890-74892). These wastes were listed as hazardous because they typically and frequently exhibit either any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (ignitability, corrosivity, reactivity and EP toxicity) or meet the criteria for listing contained in §§ 261.11(a)(2) or 261.11(a)(3).

The Agency, however, recognizes that individual waste streams may vary depending on raw materials, industrial processes and other factors. Thus, while a type of waste described in these regulations generally is hazardous, a specific waste meeting the listing description from an individual facility may not be hazardous. For this reason,

§§ 260.20 and 260.22 provide a delisting procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be listed. To be delisted, petitioners must show that the waste produced at their facilities does not meet any of the criteria under which the waste was listed, and, in the case of an acutely hazardous waste, that it also does not meet the criterion of § 261.11(a)(3). (See § 260.22(a).) Wastes which are delisted may, however, still be hazardous if they exhibit any of the characteristics of a hazardous waste and generators remain obligated to make this determination.

In addition to wastes listed as hazardous in §§ 261.31 and 261.32, waste mixtures containing a listed hazardous waste and residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for delisting (and in fact remain hazardous wastes until delisted). (See §§ 261.3(a)(2)(ii), (c), and (d)(2).) Again, the substantive standard for delisting is that the waste not meet any of the criteria for which the waste was listed originally. Where the waste is a mixture of solid waste and one or more listed hazardous wastes, or is derived from one or more listed hazardous wastes, the demonstration may be made with respect to each constituent listed waste, or the waste mixture as a whole. (See § 260.22(b).) Like other delisted wastes, delisted mixtures and delisted hazardous waste treatment, storage or disposal residues remain subject to subpart C of Part 261, and so may be hazardous if they exhibit any of the characteristics of hazardous waste.

EPA recognizes as well that there will be circumstances where immediate action on delisting petitions is appropriate. Therefore, upon Agency review of a submitted petition, the Administrator may under § 260.22(m) grant a temporary exclusion if there is substantial likelihood that an exclusion will finally be granted.

The Agency to date has received 30 delisting petitions. Based on EPA's review of these petitions, seven temporary exclusions have been granted as indicated by today's publication. To allow the Agency to concentrate its efforts on petitions relating to waste listings becoming effective on November 19, 1980, the Agency has deferred action on five petitions which involve the interim final waste listings of July 16, 1980 (which become effective on January 16, 1981). An additional eight petitions have been mooted by amendments of the May 19, interim final hazardous waste listings (see 45 FR 74036 (October 30, 1980) and 45 FR 74884 (November 12, 1980)). Five other petitioners have been notified that the data supplied is insufficient and that additional information would be necessary in order to process their petitions. The remaining petitions were submitted too recently for the Agency to complete its evaluation by November 19, 1980. Additional temporary exclusions may be granted when our evaluation is completed.

It should be noted that the Agency has not run spot checks on the test data submitted to date in delisting petitions. The Agency believes that the sworn affidavits submitted with each petition sufficiently bind the petitioners to ensure presentation of truthful and accurate test results. The Agency may, however, spot sample and analyze wastes and/or groundwater before a final decision is made whether to exclude any particular waste from the hazardous waste regulations.

We also note that the temporary exclusions granted today apply only to the Federal hazardous waste management system established under the RCRA. States remain free to take any action they deem appropriate with regard to these wastes.

The temporary exclusions published today involve the following petitioners: The Stablex Corporation, Radnor, Pennsylvania, for its proposed waste treatment/stabilization facility in Groveland Township, Oakland County, Michigan; the Firestone Wire and Cable Company, Danville, Kentucky; the Fosbrink Machine Company, Connellsville, Pennsylvania; the General Electric Company/Lighting Business Group, Conneaut, Ohio; John Deere Des Moines Works, Des Moines, Iowa; Johnson Steel and Wire Company, Inc., Worcester, Massachusetts; and Dresser Industries, Inc./Tool Group, Johnson City, Tennessee. The Agency has determined as a result of analysis of treatment processes, waste constituent and leachate test data, and specific product formulation lists, that these petitioners may receive final exclusions for their wastes and therefore, that the granting of temporary exclusions is appropriate. The final decision, to exclude the wastes described above, will be made after the Agency receives additional testing and operational data (as specified in this publication) and reviews the comments submitted in response to this notice.

Discussion of Specific Temporary Exclusions

I. Stablex Corporation

A. *Petition for Delisting.* The Stablex Corporation (Stablex) plans to operate several hazardous waste treatment facilities, utilizing industrial waste treatment processes and stabilization techniques which are designed to produce a solid cementitious landfill material. Stablex presently is applying for the necessary state and federal permits to construct and operate a hazardous waste treatment facility in the State of Michigan. In anticipation of treatment of industrial wastes, Stablex has petitioned the Agency (as required by § 261.3(d)(2)) to delist the treatment residue produced by the Stablex treatment process for the following hazardous wastes:

Inorganic Pigments

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003 Wastewater treatment sludge from the production of molybdate orange pigments.
K004 Wastewater treatment sludge from the production of zinc yellow pigments.
K005 Wastewater treatment sludge from the production of chrome green pigments.
K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007 Wastewater treatment sludge from the production of iron blue pigments.
K008 Oven residues from the production of chrome oxide green pigments.

Petroleum Refining

K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K052 Tank bottoms (leaded) from the petroleum refining industry.

Leather Tanning and Finishing

K053[1] Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue: and shearing.
K054[1] Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
K055[1] Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/ retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.
K056[1] Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet

[1] The Agency has deleted these wastes from the hazardous waste list in finalizing the May 19, 1980 interim final regulations (see 45 FR 72036 (October 30, 1980) and 45 FR 74844 (November 12, 1980)) so that the petition for delisting residues from treatment of these wastes is moot.

finish; no beamhouse; through-the-blue; and shearing.

K057[1] Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

K058[1] Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

K059[1] Wastewater treatment sludges generated by the following subcategory of the leather tanning and finishing industry; hair save/non-chrome tan/retan/wet finish.

Metals Recovery

F013[1] Flotation tailings from selective flotation from mineral metals recovery operations.

F014 Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations.

F015 Spent cyanide bath solutions from mineral metals recovery operations.

Scrubber Sludges

F016[1] Dewatered air pollution control scrubber sludges from coke ovens and blast furnaces.

Electroplating

F006[2] Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

F007[2] Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).

F008[2] Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).

F009[2] Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).

Metal Heat Treating

F010[2] Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching bath sludges).

F011[2] Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).

F012[2] Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).

Organic Chemicals

K021 Aqueous spent antimony catalyst waste from fluoromethanes production.

Iron and Steel

K060 Ammonia still lime sludge from coking operations

Commercial Chemical Products

P010 Arsenic Acid.
P011 Arsenic pentoxide.
P012 Arsenic trioxide.
P013 Barium cyanide.
P029 Copper cyanide.
P030 Cyanides.
P032 Cyanogen bromide.
P055 Ferric cyanide.
P098 Potassium cyanide.
P099 Potassium silver cyanide.
P104 Silver cyanide.
P106 Sodium cyanide.
P107 Strontium sulfide
P120 Vanadium pentoxide.
P121 Zinc cyanide.
U013[3] Asbestos.

Stablex argues that the residue (called "stablex material") from treatment of these hazardous wastes should be delisted because many of the hazardous constituents of each waste stream are present only in an immobilized, non-hazardous form, or are destroyed during the treatment process, leaving only negligible concentrations in the final stabilized material. Stablex therefore claims that its stabilized treatment sludge no longer meets the criteria for listing contained in 40 CFR §§ 261.11(a)(2) and 261.11(a)(3).

B. *Support for delisting.* Stablex claims that in operating its facilities it uses a prescreening program which accepts only wastes that can be fixed successfully by the Stablex process—predominately metal and cyanide-containing wastes. The Stablex process combines various hazardous waste treatment processes (including metal hydroxide precipitation, acid/alkaline neutralization, cyanide destruction via hypochlorite oxidation, and hexavalent chromium reduction and precipitation) with a waste fixation/stabilization process. The stabilization process is a mixed batching system which combines the treated waste sludges with cement and fly ash. The stablex material is pumped (as a sludge) to specified landfill sites. This fill material begins to set in 24 hours. The resulting stabilized product, the petitioner claims, is characterized by the formation of silicate lattices with "polymer-like" bonds, creating a cementitious material having compressive strength similar to an industrial grout (200–800 psi).

Stablex has been treating hazardous industrial wastes which are very similar in composition to the prospective U.S. wastes at its several existing English and Japanese facilities. These wastes includes sludge from the production of paint pigments, still lime sludge from coking operatings, sludge from metals recovery operations, quenching sludge from metal heat treating operations, and assorted sludges from electroplating operations. Automotive industry wastes also have been treated frequently.

In order to characterize the claimed non-hazardous nature of the stablex product, Stablex has submitted leachate tests on U.S., Japanese and English stabilized wastes. Total constituent analyses of the stablex material and groundwater and surface water run-off monitoring data (from active overseas operations) also were submitted. Waste streams from a typical range of processes in the U.S. automotive industry were tested, including plating operations (principle constituents nickel, chromium and copper); paint priming (principle constituent zinc phosphate); and waste treatment sludges from painting and metal preparation processes. Specific parameters measured in each EP toxicity test included arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, copper, iron, manganese, zinc, nickel, aluminum and cyanide.

EP toxicity tests were performed on stablex material which was ground to a fine powder to maximize the surface area available to the leaching action of the acidic solutions of these tests. EP toxicity tests performed on stabilized prospective U.S. wastes produced the following leachate results:

Leachate Concentration

Constituent	Parts per million
Arsenic	.02
Barium	1.4
Cadmium	0.01
Chromium	0.27
Cyanide	0.6
Lead	0.05
Mercury	0.004
Selenium	0.003
Silver	0.01

Note.—Total constituent analysis of the stablex material revealed cyanide concentrations of 1 ppm.

In addition, groundwater and surface water run-off monitoring data were submitted from the Stablex facility in

[2] These descriptions reflect the finalized listing description in 40 CFR 261.31 and 261.32 (45 FR 74890–74892 (November 12, 1980).)

[3] The Agency will delete asbestos from the hazardous waste list in finalizing the May 19, 1980 interim final regulations so that the petition for delisting residues from treatment of this waste is moot.

Thurrock, England which indicate that the concentration of the constituents of concern in groundwater were below the levels established by the U.S. interim primary drinking water standards. Maximum cyanide levels in groundwater were reported as 0.11 ppm. The Agency notes, however, that the low levels of hazardous constituents reported in groundwater are not necessarily satisfactory indicators of the long term fixation characteristics of a stabilized material (since particular landfill design features may impede groundwater contamination). Indeed, since the Thurrock facility has been operational only since 1978, high levels of contaminants in the groundwater would not be expected at this time unless particularly poor disposal practices were employed.

In addition to submitting analytic data, Stablex also offers a number of short-term safeguards to prevent environmental insult while the Agency reviews additional data before making a final decision on whether to grant a final delisting. Stablex has agreed with the Michigan Department of Natural Resources and the EPA to manage the stablex material as if it were a hazardous waste for the initial two year period of facility operation. During this period, the stablex material will be deposited within a demonstration cell containing a double underdrain/double compacted clay bottom liner and a PVC sidewall liner. The lower liner will consist of 4 feet of compacted clay, (with a permeability factor of 10^{-7}) while the upper liner will consist of 1 foot of compacted clay. A minimum separation of 12 feet between the bottom liner and the groundwater level will be maintained. During rain and winter conditions the stablex material will be placed in enclosed cylindrical molds within the lined demonstration cell to assure proper curing. Leachate monitoring systems will be constructed beneath the stablex material and the bottom liner of the demonstration cell and will incorporate sampling sumps for leachate withdrawal. In addition, monitoring wells will be placed along the perimeter of the placement area. A monitoring program involving analysis of leachate and storm run-off will be established during the demonstration period to determine the stability of the stablex product and the migratory potential of the leachate from the site.

C. *Agency analysis and action.* The Agency's function under RCRA includes the establishment of a national program to improve solid waste management and promotion of environmentally sound hazardous waste treatment and disposal practices. Historically-tested stabilization processes could assume an important role in properly managing hazardous wastes, particularly in view of the scarcity of hazardous waste disposal sites.

The Agency has reviewed the monitoring data submitted by the Stablex Corporation from its facility in Thurrock, England. Groundwater samples extracted from the Thurrock, England placement site revealed all EP toxic constituents to be at levels below the U.S. interim primary drinking water standards. The maximum reported cyanide concentration of 0.11 ppm in groundwater is one half that of the U.S. Public Health Service's suggested drinking water standard. However, the absence of high levels of these constituents in the groundwater below a very new landfill does not in itself indicate long-term inertness of the landfill material.

The Agency also has reviewed the leachate tests submitted from the facilities in England and Japan and domestic laboratories. Analysis of the EP toxic constituents in these waste extracts revealed concentrations well below the EP maximum toxicity levels for each waste stream tested. In addition, cyanides were present in the stablex material only in concentrations below 1 ppm, apparently indicating the effectiveness of the cyanide-destruction process.

Therefore, based predominately on the test data submitted on prospective U.S. wastes, the Agency is granting the Stablex Corporation's facility in Groveland Township, Oakland County, Michigan, a temporary exclusion for the stablex material produced using the treatment techniques described in its petition, from the following wastes listed in Subpart D of the hazardous waste regulations:

Inorganic Pigments

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.

K003 Wastewater treatment sludge from the production of molybdate orange pigments.

K004 Wastewater treatment sludge from the production of zinc yellow pigments.

K005 Wastewater treatment sludge from the production of chrome green pigments.

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).

K007 Wastewater treatment sludge from the production of iron blue pigments.

K008 Oven residues from the production of chrome oxide green pigments.

Electroplating

F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and miling of aluminum.

F007 Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).

F008 Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).

F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).

Metal Heat Treating

F010 Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching bath sludges).

F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).

F012 Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).

Metals Recovery

F014 Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations

F015 Spent cyanide bath solutions from mineral metals recovery operations

Commercial Chemical Products

P010 Arsenic acid.

P011 Arsenic pentoxide.
P012 Arsenic trioxide.
P013 Barium cyanide.
P029 Copper cyanide.
P030 Cyanides.
P032 Cyanogen bromide.
P055 Ferric cyanide.
P098 Potassium cyanide.
P099 Potassium silver cyanide.
P104 Silver cyanide.
P106 Sodium cyanide.
P121 Zinc cyanide.

We remained concerned, however, with the long-term leaching characteristics of the stablex material (and residue from other waste stablization processes). The Agency, as discussed further below, may find it necessary to have these long-term characteristics addressed before a final delisting is granted. Stablex' two year management pledge, however, is a safeguard during that period.

D. *Wastestreams for which Stablex submitted insufficient data.* The Agency has deferred action on the stablex material produced from the treatment of the following wastes due to submission of insufficient test data:

Organic Chemicals

K021 Aqueous spent antimony catalyst waste from fluoromethanes production.

Iron and Steel

K060 Ammonia still lime sludge from coking operations.

Petroleum

K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K052 Tank bottoms (leaded) from the petroleum refining industry.

Commercial Chemical Products

P107 Strontium sulfide.
P120 Vanadium pentoxide.

Stablex has been notified of these deficiencies and is presently testing for the additional characterization of the total naphthalene, phenolics, carbon tetrachloride, chloroform, antimony, strontium sulfide, and vanadium pentoxide concentrations in the stablex material. If this data indicates that these constituents are either destroyed or immobilized as part of the treatment process, the Agency expects to grant a temporary exclusion for these waste streams as well. Data has also been requested characterizing the effects of organics present in petroleum refining wastes on the leaching characteristics of the metal constituents and on the overall stability of the stablex material.

E. *Agency information needs for final delisting.* The Stablex Corporation has been notified of a number of information needs before a final delisting can be granted. This information includes all test data previously mentioned in section D of this publication, as well as four repetitions of the EP Toxicity test for metals and cyanide, on each prospective U.S. waste on both cured and uncured stablex material; submission of a complete set of borehole monitoring data throughout placement areas in England and Japan, and a detailed description of the process and of the safety and monitoring features incorporated into each pretreatment operation. In addition, data addressing the long-term leaching characteristics of the stablex material should be presented. The Agency also may condition any final exclusion upon performance of certain operating standards such as continuous groundwater monitoring.

II. Firestone Wire and Cable Company

A. *Petition for delisting.* The Firestone Wire and Cable Company (Firestone), involved in the manufacture of high strength wires and strands, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006 (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acide anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.[4] Cadmium, chromium, nickel, and cyanide are the hazardous constituents of this waste. Firestone has petitioned to delist its waste because it does not meet the criteria for which Hazardous Waste F006 was listed in Part 261, Subpart D. Firestone utilizes the processes of wire drawing, heat treating, acid and alkali cleaning, electroplating, electrochemical displacement deposition and twisting, in its production of steel wire and strands. Firestone indicates that since its electroplating process uses brass (copper and zinc) and bronze (copper and tin), its waste cannot contain hazardous levels of cadmium and chromium. Firestone further states that the cyanide destruction process eliminates all but negligble levels of cyanide in the sludge.

Firestone's brass and bronze cleaning and plating operations use hydrochloric and sulfuric acids, sodium hydroxide, copper and zinc cyanide, and copper and tin sulfate. These chemicals are rinsed from the wire after each process step. The rinse waters are piped directly to the effluent pretreatment plant. The pretreatment plant operation of acid neutralization utilizes alkali addition for pH adjustment, while the cyanide destruction process involves oxidation by chlorination. The sludge cake produced by flocculation, clarification, and filtration consists primarily of the hydroxides of iron, copper, zinc and tin.

B. *Support for delisting.* The Firestone Wire and Cable Company has submitted a detailed description of its sludge pretreatment system, results of influent sludge composition analyses, EP toxicity test results, distilled water leachate tests for cyanides, and total consituent analyses of sludge samples for chromium, cadmium, nickel and cyanide. Samples were obtained over a three month period to represent the uniformity of constituent concentrations in the waste.

The total constituent analyses revealed concentrations of cyanides in finished sludge of <2 ppm, while leachate tests produced cyanide leachate concentrations of <0.08 ppm. EP toxicity tests involving cadmium, chromium and nickel produced leachate levels of <0.1, <0.1, and <1 ppm respectively.

C. *Agency analysis and action.* The constituents of concern for Hazardous Waste No. F006 are cadmium, chromium, nickel and cyanide. Firestone does not use cadmium, chromium or nickel in its electroplating process. Cyanides however, are used and therefore may be present in the sludge. Firestone has, however, sufficiently demonstrated that its sludge pretreatment system removes the majority of cyanides from its waste, leaving residue concentrations of less than 2 ppm in the sludge. The cyanide leachate values of <0.08 ppm are well below the Public Health Service's recommended drinking water standard.

Total constituent levels of cadmium, chromium and nickel concentrations in the sludge of <1, 13, and 48 ppm respectively support the fact that the Firestone process does not use these metals in their plating operation. They apparently appear only as contaminants in other process solutions. Leachate concentrations of <0.1, <0.1, and 1 ppm for cadmium, chromium and nickel respectively, indicate that these elements also are present in essentially an immobile form.

Firestone therefore has presented sufficient data indicating the non-hazardous levels of cadmium, chromium, nickel, and cyanide in their waste. The Agency also acknowledges that the cyanide pretreatment operation is effective and employs satisfactory

[4] This listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

safety features, including transfer pumps automatically triggered by alkali/chlorination sensors, and a standard sampling operating procedure prior to the transfer of wastes to the pH adjustment tank. The Agency therefore has granted a temporary exclusion to Firestone's Danville, Kentucky facility for their electroplating wastewater treatment sludge, as described in its petition, from its listing under EPA Hazardous Waste No. F006.

III. Fosbrink Machine Company Incorporated

A. *Petition for delisting.* The Fosbrink Machine Company (Fosbrink), involved in the manufacture of wire and wire products, has petitioned the Agency for the delisting of its sludge, formerly listed as EPA Hazardous Waste No. K063, sludge from lime treatment of spent pickle liquor from steel finishing operations.[5] Fosbrink has petitioned to delist their waste because it does not meet the criteria for listing.

The Fosbrink Machine Company utilizes the processes of cold drawing, pickling and lime treatment in the production of wire from wire rods. Its waste treatment process for spent pickle liquor rinse and overflow wastes involves neutralization, oxidation, flocculation, settling, drying and recycling of the liquid waste stream component. They claim their sludge is environmentally stable and non-hazardous, and specifically that its sludge does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor of hazardous waste K062.

Fosbrink has submitted a detailed description of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in Section 261.24 of the regulations. The sludge samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests involving chromium and lead produced leachate levels of <0.04 and <0.03 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern in this waste, are chromium and lead. EP extracts from sludge samples analyzed by Fosbrink show lead and chromium consistently below the national interim primary drinking water standards. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency therefore, has granted temporary exclusion to the Fosbrink's facility in Connellsville, Pennsylvania for its treated pickling rinse and overflow wastes, as described in its petition.

IV. General Electric Company

A. *Petition for delisting.* The General Electric Company/Lighting Business Group's, Conneaut Base Plant (General Electric), involved in the production of light bulbs, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006, (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.)[6] General Electric has petitioned to delist their waste because it does not meet the criteria for which Hazardous Waste F006 was listed in Part 261, Subpart D of the regulations.

The General Electric Company uses a "bright-dip" etching and stamping process for its light bulb bases which is characterized as an electroplating operation under Hazardous Waste F006. General Electric claims that the chemical etch or "bright-dip" process employed this facility does not use any of the hazardous constituents for which Waste No. F006 are listed. Instead, an aluminum and brass (copper and zinc) chemical etching process utilizing nitric and sulfuric acids is used. The stamping process generates a light diluting cutting oil as a waste stream. General Electric further states that its wastewater treatment process combines the streams for these two operations, and as a result, cracks the oils from the stamping process (due to the action of the etching acid wastes). The addition of sodium hydroxide, it is claimed, neutralizes these acids, rendering the waste non-hazardous.

General Electric has submitted a detailed description of the etching and stamping processes utilized at this facility to indicate that the listed hazardous waste constituents of Hazardous Waste No. F006 are not used in its operation. General Electric has also submitted constituent analyses and leachate tests of their sludge for chromium, cadmium, nickel and cyanide. Total constituent analyses revealed concentrations of <10, <22, <8 and $<.005$ ppm for chromium, cadmium, nickle and cyanide, respectively. EP toxicity tests produced leachate concentrations of <0.01, <0.02, and 0.08 ppm for chromium, cadmium, and nickel respectively. The levels of cadmium, chromium and nickel which appeared in these wastes are attributed to unknown sources, since they are not used intentionally in the process.

B. *Agency analysis and action.* The hazardous waste constituents for which EPA Hazardous Waste No. F006 is listed are cadmium, chromium, nickel and cyanide. General Electric has submitted sufficient evidence that the wastewater treatment sludge produced in its chemical etching process does not contain hazardous levels of these constituents. Concentrations of cadmium, chromium and nickel in EP extracts of the sludge were consistently below the national interim primary drinking water standards. The low leachate levels indicate that the constituents of concern are present in an immobile form. Cyanide concentrations of <0.005 ppm in the sludge are considered negligible. The low concentrations of these constituents are probably a result of unknown minor sources of contamination and background levels, rather than direct use of these constituents in the process. The Agency therefore, has granted a temporary exclusion to the General Electric Company, Conneaut Base Plant, for the wastes generated by its "bright-dip" chemical etching and stamping process as described in its petition, listed under EPA Hazardous Waste No. F006.

V. Dresser Industries, Incorporated

A. *Petition for delisting.* Dresser Industries, Inc. (Dresser), involved in the manufacture of hand tools, has petitioned the Agency to delist its sludge, formerly listed as EPA Hazardous Waste No. K063 (sludge from lime treatment of spent pickle liquor from steel finishing operations).[7] Dresser has petitioned to delist their waste because it does not meet the criteria for listing.

Dresser utilizes the processes of sulfuric acid pickling, phosphate coating

[5] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

[6] This listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

[7] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

and cold extrusion of medium carbon non-alloyed steel in the production of hand tools. Its waste treatment process for spent pickle liquor, pickling rinse and overflow wastes involves neutralization (using lime and sodium hydroxide), flocculation, settling, and filtration. Dresser claims that its sludge is environmentally stable and non-hazardous, and specifically that it does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor waste K062.

Dresser submitted a detailed description of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in § 261.24 of the regulations. The samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests performed on the waste produced chromium and lead leachate levels of <0.01 and <0.58 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern is this waste are chromium and lead. EP extracts from sludge samples analyzed by Dresser show lead and chromium consistently well below the maximum EP toxicity levels. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency, therefore, has granted temporary exclusion to Dresser's facility in Johnson City, Tennessee for its treated spent pickle liquor and pickling rinse waste sludge, as described in its petition.

VI. Johnson Steel & Wire Company, Inc.

A. *Petition for delisting.* The Johnson Steel and Wire Company (JS&W), involved in the manufacture of specialty ferrous wire, has petitioned the Agency to delist its sludge, formerly listed as EPA Hazardous Waste No. K063, (sludge from lime treatment of spent pickle liquor from steel finishing operations).[8] JS&W has petitioned to delist their waste because it does not meet the criteria for listing.

JS&W utilizes the processes of cold drawing, hydrochloric acid pickling, and replacement coating of tin, bronze and phosphate in the production of ferrous wire. Its waste treatment process for spent pickle liquor rinse and overflow wastes involves neutralization, lime and polymer flocculation, settling, and pressed filtration. They claim their sludge is environmentally stable and non-hazardous, and specifically that the sludge does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor of waste K062.

JS&W submitted a detailed decription of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in § 261.24 of the regulations. The samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests revealed chromium and lead levels in the waste extract of 0.07 and 0.04 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern in this waste, are chromium and lead. EP extracts from sludge samples analyzed by JS&W show lead and chromium consistently well below the maximum EP toxicity levels. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency therefore, has granted a temporary exclusion to the JS&W's facility in Worcester, Massachusetts for its treated spent pickle liquor, as described in its petition.

VII. John Deere Des Moines Works

A. *Petition for delisting.* John Deere Des Moines Works (John Deere), a company manufacturing farm equipment and machinery, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006 (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum).[9] John Deere has petitioned to delist its sludge because it does not meet the criteria for which it was listed in Part 261, Subpart D, of the regulations.

John Deere utilizes the processes of metal cleaning, metal machining, electroplating of chromium and zinc, and metal heat treating in the production of farm machinery. It claims that its waste treatment process is successful in generating a non-hazardous sludge cake, with cadmium and chromium present at non-hazardous levels and in essentially an immobile form. In addition, John Deere states that nickel and cyanide are not used in its electroplating processes.

John Deere submitted a detailed description of its waste treatment system; EP toxicity test results for cadmium, chromium, and nickel; and total and amenable cyanide analyses of its sludge.

John Deere utilizes a lime/cationic polymer, pH regulated, precipitation waste treatment system. EP toxicity tests for cadmium, chromium and nickel performed on the resulting sludge cake produced maximum leachate concentrations of 0.08, .37, and 0.66 ppm, respectively. The total concentration of nickel and cyanide in sludge were reported at 10.6 and <0.13 ppm, respectively. The concentration of cyanide amenable to chlorination (free cyanide) was determined to be <0.007 ppm.

B. *Agency analysis and action.* The hazardous waste constituents for which Waste No. F006 is listed are cadmium, chromium, nickel and cyanide. Although John Deere does not use nickel and cyanide in its electroplating process, cadmium and chromium are used and are present in the sludge. These constituents appear, however, to be present in an immobile form.

EP toxicity test leachate results for cadmium and chromium are well below the EP maximum toxicity levels and indicate the immobile nature of these constituents. The low levels of nickel and cyanide in the sludge (10.6 and 0.13 ppm respectively) indicate that these constituents are not used in John Deere's electroplating process but are probably a result of known minor sources of contamination and background levels. The levels of cyanide found in the sludge are below the U.S. Public Health Service's suggested drinking water standard, and the low levels of free cyanide indicate that levels of mobile cyanide are even lower. The Agency therefore, has granted a temporary exclusion to the John Deere Des Moines Works, facility for its treated electroplating waste sludge, as described in its petition, listed under EPA Hazardous Waste No. F006.

Dated: November 13, 1980.

Eckardt C. Beck,

Assistant Administrator.

[FR Doc. 80-36884 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-30-M

[8] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

[9] The listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

federal register

Tuesday
November 25, 1980

Part XI

Department of Health and Human Services

Public Health Service

National Guidelines for Health Planning; Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 121

National Guidelines for Health Planning

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to add national health planning goals to the National Guidelines for Health Planning under section 1501 of the Public Health Service Act. These goals concern health status outcomes, disease prevention and health promotion and personnel resources and systems of care. They supplement Subparts A and C of the Guidelines published as final regulations on March 28, 1978, which addressed standards for nine types of health services and facilities. Later issuances will provide additional goals and standards.

DATE: Comments must be received not later than February 23, 1981.

ADDRESS: Written comments and recommendations should be submitted to: Office of Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location during regular business hours.

FOR FURTHER INFORMATION CONTACT: James W. Stockdill, Associate Administrator for Planning, Evaluation and Legislation, Health Resources Administration, Center Building, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436–7270.

SUPPLEMENTARY INFORMATION:

A. Overview

The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposes to add Subpart B to Part 121 of Title 42 of the Code of Federal Regulations to implement section 1501 of the Public Health Service Act, as amended by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79). This section requires the Secretary to issue, by regulation, Guidelines concerning national health planning policy. Guidelines must include:

(1) Standards respecting the appropriate supply, distribution, and organization of resources, and

(2) National health planning Goals developed after considering the National health priorities established by Congress in Section 1502 of the Act. To the maximum extent practicable, the Goals must be expressed in quantitative terms.

The Guidelines proposed here constitute statements of national health planning goals pursuant to Section 1501 (b)(2) of the Act. A statement of resource standards with respect to certain acute inpatient resources and services, issued pursuant to Section 1501 (b)(1) was published as a final regulation on March 28, 1978 (42 CFR Part 121; 43 FR 13040).

The House Committee reporting on the Health Planning and Resources Development Amendments of 1979 noted, "the purpose of the Guidelines is to help clarify and coordinate national health policy and to assist HSAs (Health Systems Agencies) in developing required health systems plans." The proposed goals, in line with this Congressional intent, are designed to serve this purpose. First, they serve as a statement of health goals for national achievement. All persons and organizations interested in better health for the people of the nation should contribute to the furtherance of the accomplishment of the goals. Second, they should assist health systems agencies (HSAs) established under Section 1512 of the Public Health Service Act in setting goals for their areas as they develop the Health Systems Plans required by the Act. In turn, these local experiences are expected to contribute to further development of the goals and national health policy in general. Thus, the Guidelines can serve as a bridge between national policy and State and local planning efforts.

Since the achievement of the goals will depend upon the efforts of entire communities, the HSAs should work with residents to stimulate, monitor, shape, and coordinate these efforts. The national health planning goals are intended to guide and assist HSAs, communities, and the nation as a whole in improving the health care system and health status.

This proposal is divided into three categories. Category I proposes goals with respect to health status outcomes. Category II proposes goals with respect to disease prevention and health promotion. Category III proposes goals with respect to institutional and personnel resources and systems of care. The national goals take a broad approach to health and are not limited to reductions in morbidity and mortality, but are also concerned with reductions in disability and dysfunction and improvements in the quality of life.

While these goals focus on a limited number of topics, when fully developed over time the Guidelines will present a comprehensive statement of national health goals and cover the full range of health care issues. Additional statements and proposed changes will be based on reviews of HSPs, Annual Implementation Plans (AIPs), and State Health Plans (SHPs), as well as on new research findings and analyses and other experience gained in developing and applying the goals. The development of the National Guidelines will be a long term process. Section 1501 of the Act requires that the Guidelines be reviewed each year.

Section 1501 also requires the Secretary to consider the seventeen national health priorities in section 1502 when developing the national health planning goals. Goals related to these priorities are marked with an asterisk. Other factors which were considered in selecting goals include: (1) potential for improving the health of the population; (2) relevance to the statutory mission of improving access, potential for increasing the quality of care, and constraining costs; (3) reference to an important health problem; (4) relation to other health policy statements in Federal laws or regulations and (5) potential for achievement.

In keeping with the statute, the proposed goals are expressed in quantified terms wherever possible. However, when quantified statements are not feasible, they are expressed in more general, qualitative terms.

The Notice invites all interested parties to submit written comments and recommendations concerning the proposed National Guidelines for Health Planning. After consideration of the material received in response to this Notice, the Secretary of Health and Human Services will, by regulation, issue the final Guidelines concerning national health planning goals.

B. Application

According to section 1513(b)(2) of the Act, HSAs must give "appropriate consideration" to the National Guidelines for Health Planning when developing their HSPs. In addition, HSAs, are expected to mobilize community efforts to accomplish the goals contained in these Guidelines.

Section 1513(b)(2) of the Act, as enacted by P.L. 93–641, called for the HSPs to give "appropriate consideration to" the National Guidelines (both goals and standards) and "be consistent with" the standards respecting the appropriate supply, distribution and organization of

health resources, which were published in Subpart C of Part 121. Subpart A, "General Provisions", reflects the former statutory requirements of consistency with the standards. The Health Planning and Resources Development Amendments of 1979 (P.L. 96–79) which amended Title XV of the Act, deleted the requirement for consistency with the resource standards, and Subpart A will accordingly be revised to reflect the statutory change. However, according to the Amendments (P.L. 96–79), if the goals of the HSP are not consistent with the National Guidelines—both goals and standards—the HSA must provide the State Health Planning and Development Agency (SHPDA) and the Secretary, with a detailed statement explaining the inconsistency. In addition, the HSA is required to report this statement when making its HSP available to the Statewide Health Coordinating Council (SHCC) under section 1524(c)(2)(A). The following are among the reasons why inconsistencies may exist: (1) the goal addresses a problem not prevalent within the health service area; (2) the problems unique to the area are of greater concern; and (3) the goal cannot be achieved within the time frame specified or with the resources available to the community.

When considering the goals, HSAs should be sensitive to the special needs, resources and priorities of their areas. Problems unique to specific geographic areas and population subgroups should be identified and addresses as HSPs are prepared and implemented. While HSPs should address each of the proposed goals, they also should address other issues of importance within their areas. Since local needs and resources vary, HSAs may differ in their priorities and, consequently, in their schedules and strategies for achieving the national health planning goals. It is expected that HSAs will acquire and analyze data on the application of goals to local circumstances, and will address in their HSPs the relationships between local experiences and aspirations and the national goals.

Except where otherwise noted, the goals are set for achievement in five years. However, HSAs should establish their own deadlines for goals which reflect local priorities and resources. Because substantial increase in the scope of many HSPs may be needed to address all the issues addressed in the proposed goals, HSAs may choose to phase the national health planning goals into their plans over a three-year period. All plans established after one year from the date the Secretary issues final regulations must, at a minimum, include a plan for when all the national goals will be addressed. This plan should be developed in consultation with the SHPDA and SHCC. All HSPs established after three years from the date of final regulations must address all the goals. Revised "Guidelines on the Development of Health Systems Plans and Annual Implementation Plans" will be issued as program guidance regarding further HSA responsibilities in applying the goals.

Each State Health Plan developed under section 1523(c)(2)(A) of the Act must be "made up of" the HSPs of the HSAs within the State, revised by the SHCC, or by the SHPDA in preparing the preliminary State Health Plan, to coordinate HSPs or deal more effectively with Statewide health needs. Since each HSP must consider the national goals, the State Health Plan will reflect them accordingly.

When setting priorities and developing strategies, State and local agencies should attempt to relate the cost of meeting their objectives to the benefits the goals are expected to produce they should also seek to identify public and private resources which can also be used to help achieve the goals.

While changes in health status are viewed as desirable longrange outcomes of improvements in institutional and personnel resources and systems of care, it is recognized that such gains will result not only from the implementation of Health Systems Plans, but also from a complex array of individual and societal factors not always directly susceptible to modification by Health Systems Agencies or even by the health care system.

The programs for Certificate of Need (CON), the review of new institutional health services, review and approval of proposed uses of Federal funds, and review for appropriateness of existing institutional health services, should be used to help achieve these goals. A range of voluntary and community actions also will be needed, and HSAs in particular should work as facilitators and catalysts, coordinating the efforts of those who are affected by planning decisions and who have resources to contribute toward implementing efforts. This group will include providers, State and local health departments, other State and local officials, hospitals, health care insurers and community agencies. In many instances, it will be necessary to coordinate a broad array of services—health, education, social and community support services, housing, transportation and recreation—to develop and achieve desired goals. Further strides in meeting the health-related needs of the elderly and those suffering from chronic illness and disabilities will depend upon such efforts.

The Department recognizes that all the actions required to achieve the proposed goals are not directly susceptible to HSA and SHPDA influence. The HSAs and SHPDAs do not have control over the performance of the health system. The changes they propose in their plans are usually recommendations and thus are not binding. Those who operate and finance the health care system have a more direct impact. Moreover, it is not yet possible to measure the effects of HSA decisions on systems performance. The link between systems change and health status outcome is even more tenuous. Finally, definitive indications of impact take a long period to measure, often a minimum of five years. Thus, the planning agencies cannot be held accountable for the actual achievement of the goals.

Nevertheless, in keeping with its responsibilities under section 1535 of the Act, the Department is interested in assuring that the statutory mandate for considering the goals is met. HSAs are responsible for working with their communities in setting health status and health systems goals, mobilizing community efforts to implement their plans, and stimulating community actions which will improve the health care system within their areas. The Department will review the efforts by the agencies in implementing their plans and stimulating community actions to make needed improvements in resources, systems of care and health status, and will hold the agencies accountable for performing these functions.

The Federal Government has, in the past, contributed significantly to progress on many of the proposed goals and can be expected to continue to do so. Agencies established under the Public Health Service Act, Community Mental Health Centers Act, Drug Abuse Office and Treatment Act, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitaton Act of 1970, and other Acts have helped develop these proposed goals and their programs will provide program support for their achievement. Federal activities however, are not expected to be the central factor. The achievement of these goals will require a full partnership of effort involving consumers and professionals, State and local government, and those in the voluntary and private sectors.

C. Process of Development

As required by the 1979 planning amendments, the Department has developed these Guidelines in consultation with HSAs, SHPDAs, SHCCs, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development. The Department also solicited the views of consumers and other interested individuals and organizations.

The goals in this document reflect recommendations obtained during an extensive process of public consultation. This process began on June 12, 1975, with a notice in the **Federal Register** (40 FR 25080) requesting comments on developing Guidelines. In addition, agencies and organizations such as the Center for Disease Control, the Harvard School of Public Health, and the American Health Planning Association brought groups of interested individuals together to assist in identifying and analyzing issues that should be addressed. Many papers prepared in connection with these activities have been published in three volumes of "Background Papers on the National Health Guidelines."

In July 1976, an initial draft of 24 potential national health planning goals was distributed for comment. In October 1976, a more extensive draft of potential goals and standards was made available for public review and comment. These drafts were sent to State and local health planning agencies, more than 100 medical and other health professional associations, and interested consumer groups. Each DHHS regional office also organized a series of public meetings on the draft Guidelines at the local, State or regional level. Altogether, the Department received and analyzed 1,300 individual comments on the draft material.

On October 19, 1979, a Notice of Availability of Draft Regulations published in the **Federal Register** (44 FR 60342) announced that an advanced draft of the goals was now available. Like earlier drafts, copies were provided to HSAs, SHPDAs, SHCCs, Centers for Health Planning, a number of associations and specialty societies representing medical and other health care providers, consumer organizations, and the National Council on Health Planning and Development.

When the 45-day public comment period provided by the Notice of Availability ended on December 3, 1979, the Department had received a total of 388 written comments from a wide range of individuals and organizations. All comments were then categorized and presented to the National Council. The National Council on Health Planning and Development's Subcommittee on National Guidelines Goals, Standards and Priorities, also heard public testimony on the draft in Los Angeles, California on November 8–9, 1979.

In line with its statutory responsibilities, the National Council on Health Planning and Development has played a major role in providing advice and recommendations to the Department on draft goals since its establishment. The Council has emphasized the importance of developing a set of goals broad enough to provide a comprehensive framework for the development of HSPs and SHPs. The Council also has stressed the importance of (1) developing strategies for achieving high priority goals involving the combined efforts of the public and private sectors and (2) initiating selected projects which focus on a limited set of goals which can be measured and which can be achieved quickly.

The Council believes that joint public/private efforts can marshall broad support from the resources of industry, labor, third party payors, educational institutions, the health care industry and others to achieve common goals. In developing demonstration projects it has tentatively chosen seven goals as priorities for the demonstration projects. These relate to (1) reducing infant mortality, (2) reducing deaths from preventable communicable disease, (3) immunizing children, (4) regionalization, (5) developing strategies for strengthening preventive health services, (6) developing strategies for reducing or preventing alcoholism and related disabilities, and (7) new technology. Comments are solicited on these priorities. The Council recently established a Subcommittee on National Guidelines Goals, Standards and Priorities to review the national experience in these areas. With respect to health planning goals, the Subcommittee will identify those goals which should receive priority attention; investigate demonstration projects related to priority goals; study research needs appropriate to the develoment and refinement of the Guidelines; develop improved indicators to assess their impacts; and make recommendations on the need for further development and refinement of the Guidelines.

D. Major Issues

The major issues which emerged from the Notice of Availability, the public testimony, and the recommendations of the National Council on Health Planning and Development, are summarized below. A detailed analysis of the public comments and the Council recommendations are available upon request.

1. *Health Planning and Resources Development Amendments of 1979.*

Many of the written comments requested that this document list the seven new national health priorities added to section 1502 by the Health Planning and Resources Development Amendments of 1979. They are as follows:

(9) ". . . the development and use of cost saving technology."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurance of access to community mental heath centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve, in accordance with subsection (b), to advance the purposes of quality assurance, cost effectiveness and access."

Each of these new priorities is reflected in the proposed goals.

2. *Relationship to Other Federal Efforts.*

Healthy People, The Surgeon General's Report on Health Promotion and Disease Prevention, released in July 1979, proposed five major public health goals for each major age group in the society. The goals specified improvements in the health of infants, children, adolescents and young adults, adults and older adults which were to be achieved by 1990. The report also outlined the health promotion, health protection and disease prevention strategies which should be undertaken to accomplish these goals.

Many written comments sought clarification about the relationship between the proposed national health

planning goals and the longer range goals in the Surgeon General's Report. These proposed goals now incorporate the 1990 targets from the Surgeon General's Report.

Other questions were raised as to the relationship between the goals and the draft "Objectives for the Nation" released for public comment in August 1979, and the "Model Standards for Community Preventive Health Services issued in August, 1979, as a Report to Congress. Each of the documents is of a different scope and is designed to serve a different purpose. The proposed national goals provide a set of goals dealing with a broad range of issues related to changes in health status, and the health system. The draft "Objectives" set more specific targets to be achieved by 1990 in 15 areas of prevention and health promotion activities and the Model Standards are intended to provide models for State and local health agencies to use in setting standards within their areas.

Further, the DHHS Office of Professional Standards Review Organization (PSRO) has drafted a statement of Proposed National Professional Standards Review Organization Goals. These draft goals address problems of inappropriate variations in hospital utilization, medical and surgical procedures, medically unnecessary use of ancillary services, and substandard quality care. The PSRO national goals have also been incorporated into Goal III.B.5. on the Quality of Health Services.

3. *Special Needs of Rural Areas.*

While a number of the proposed goals relate to problems found in rural areas, a number of commenters called for additional attention to special circumstance and problems which exist in rural areas and which must be taken into account in applying national health planning goals. These include:

a. The chronic inequities in the distribution of medical care resources which are particularly severe in the 1,800 counties with populations of less than 25,000.

b. The health status of rural residents, which is poorer than that of residents of metropolitan areas when measured by such indicators as infant mortality rates, disability bed days and instances of chronic health conditions. Those living in rural areas with the greatest need for medical attention have the least access when measured by the supply of resources.

c. Poverty which increases the need for medical care while it decreases the ability to purchase care. In 1976, the percentage of the rural population without health insurance was almost double that of the urban population.

d. Low population density, which often precludes "economies of scale." People in rural areas also must often travel long distances to obtain care.

e. Cost control associated with using existing resources more efficiently, which tends not to be an issue in rural areas because residents there often face a more basic problem: the availability of a minimal level of health and medical care services, including emergency care.

f. Health education which may play a more significant role in rural areas since rural populations, for a variety of reasons, may be required to assume a greater responsibility for their own care.

g. Environmental and occupational health problems which are unique to rural areas. The inappropriate use of fertilizers and pesticides and their impact on the health of rural residents through air and water pollution is an important environmental issue. Occupational health services may need to be upgraded to account for the high incidence of accidents, injury and disability in such rural occupations as agriculture, forestry, construction and mining.

h. Some areas of the country face unique health problems resulting from rapid growth due to energy development. In addition to problems traditional to rural areas, the health problems in these areas become greatly magnified with energy development. Among the problems are: lack of adequate primary care; increased pressure on basic human services; the "bust" phenomenon which follows the "boom"; the long time period for development of health facilities and the presence of excess facilities when they are no longer needed; the unique environmental problems; and a high incidence of mental illness, alcoholism, and drug abuse. Given that sixty percent of natural energy reserves lie on or near Indian reservations, an effort must be made to protect these potentially vulnerable populations from such developmental problems.

i. Traditional guidelines regarding the efficiency of health care institutions which may not always be applicable in rural areas. An influx of migrant agricultural workers or tourists may create dramatic seasonal changes in the population.

Particular attention should be devoted to these distinct characteristics of rural areas.

4. *Levels of Specificity.*

Many commenters expressed concern that the goals were too general and urged that they be more specific and quantitative. General statements, it was pointed out, can limit the usefulness of the goals because they provide no way to measure progress. Moreover, many HSAs pointed out that the Department required them to be more quantitative in their own planning efforts than the Department itself had been when developing these goals.

Others, including the National Council on Health Planning and Development, felt the level of specificity was appropriate. They saw the goals as an expression of desirable aspirations for improving both health status and health care, and as a foundation for more substantive public discussions. They felt that highly specific goals could create major problems for communities for whom the goals were inappropriate or unattainable.

As indicated earlier, section 1501 requires that the goals be expressed in quantified terms to the maximum extent practicable. The Department has decided that the current level of specificity is appropriate for an initial statement of national health planning goals. Given the diversity that exists in this nation, it was judged not advisable to set goals which created a uniform standard for every area and community in the country. HSAs, however, are encouraged to quantify goals for their areas wherever possible. At the very least, local planning agencies should attempt to set numerical objectives when implementing the goals.

5. *Financing.*

Many commenters asked how local planning agencies, health care institutions and others should go about implementing national health goals, given the current structure of financing and reimbursement systems. These systems will play an important role in determining the resources available to implement the goals in any given community. While reimbursement mechanisms should be adjusted or developed to support the achievement of these goals, the lack of immediate reimbursement should not become a reason for failing to take actions leading to their implementation. Communities and health institutions should work towards developing ways of meeting the proposed goals which do not require the immediate availability of new funding.

6. *Specific Changes in the Goals.*

Some specific recommendations were received for restructuring the document. In line with these recommendations, several goals have been combined and the structure has been changed to include three categories of goals. The first is health status outcomes which represent the long range objectives (I). These are to be achieved by goals relating to increased health promotion

and prevention activities (II), and changes in institutional and personnel resources and systems of care (III).

A number of comments suggested additional goals. Goals addressing low birth weight infants and environmental and occupational health have been added. The goal on teenage pregnancy has been broadened to encompass all unintended pregnancies, with particular attention to certain high risk groups, such as teenagers. A new section, Category III.C., has been added on Coordinating Community Resources, which addresses issues of access for the disabled, and the availability and coordination of a broad array of health and human services. Goals related to alcoholism have been separated from those for drug abuse. Amphetamine and marijuana use have been added. The quantitative targets in many goals have been adjusted to reflect recent trends and experiences.

A statement has been added regarding the availability of a wide range of organizational and financial options for health care services and the goal on prepaid health care has been broadened to include not only federally-qualified HMOs but also similarly constituted ones.

With respect to Goal III.A.2 (Primary Care), many commenters criticized the concept that a certain number of nurse practitioners and physicians' assistants could be regarded as the full or partial equivalent of a physician. The commenters acknowledged that nurse practitioners and physicians' assistants could increase availability by providing limited medical care in the absence of a physician, but pointed out that they could not relieve the need for the kind of care a physician provides. In light of these concerns, the concept of equivalency has been dropped.

Many comments criticized an earlier draft goal which encouraged all individuals to seek a second opinion before undergoing elective surgery. Questions were raised about the evidence that indicated unnecessary surgery was occurring and whether the benefits of second opinion programs had been sufficiently documented. Nevertheless, there is growing evidence to indicate that certain elective surgical procedures are not always necessary or in the best interests of the patient's health. Moreover, Blue Cross/Blue Shield and other commercial insurers now routinely reimburse "second opinion" services and strongly advocate that their policy-holders seek second opinions prior to choosing elective surgery. Similarly, within the medical profession there is a noticeable trend towards supporting second opinion and peer review with respect to elective surgery. In addition, Federal agencies have found second opinion programs to be cost-effective and have approached this subject from the dual perspective of cost-savings and consumer (patient) education/awareness.

Other commenters including the National Council on Health Planning and Development when it considered the goals at their January 11, 1979, meeting, felt the goal on second opinion related more to questions of the clinical practice of medicine than to health systems considerations. In view of this concern, the goal on second opinion has been revised to focus on problems of inappropriate variations in surgical procedures, and incorporated in Goal III.B.5. on Quality of Health Services.

The concept of uniform cost accounting contained in the goal on management procedures also received substantial criticism. Many recommended that this be replaced with uniform cost reporting. Uniform cost reporting, the commenters contended, would meet the objectives of comparable data and information while providing greater flexibility without unnecessarily burdening providers and increasing administrative costs. Goal III.B.6 (Management Procedures) has been revised in line with this suggestion.

It is therefore proposed to add a new Subpart B to 42 CFR Part 121 as set forth below.

Dated: September 3, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

PART 121—NATIONAL GUIDELINES FOR HEALTH PLANNING

Subpart B (§ 121.101) is added to Part 121 to read as follows:

Subpart B—National Health Planning Goals

§ 121.101 Scope of the subpart.

(a) The goals proposed below as Supplements A and B to this section set forth National Health Planning Goals issued as part of the National Guidelines For Health Planning pursuant to Section 1501(b)(2) of the Public Health Service Act. They supplement the National Standards respecting certain acute inpatient resources and services issued March 28, 1978 (42 CFR Part 121, 43 FR 13040).

(b) The House Committee reporting on the Health Planning and Resources Development Amendments of 1979 noted, "the purpose of the Guidelines is to help clarify and coordinate national health policy and to assist HSAs (Health Systems Agencies) in developing required health systems plans." The proposed goals, in line with this Congressional intent, are designed to serve this purpose. First, they serve as a statement of health goals for national achievement. All persons and organizations interested in better health for the people of the nation should contribute to the furtherance of the accomplishment of the goals. Second, they should assist health systems agencies (HSAs) established under Section 1512 of the Public Health Service Act in setting goals for their areas as they develop the Health Systems Plans required by the Act. In turn, these local experiences are expected to contribute to further development of the goals and national health policy in general. Thus, the Guidelines can serve as a bridge between national policy and State and local planning efforts.

(c) The national goals take a broad approach to health and are not limited to reductions in morbidity and mortality, but are also concerned with reductions in disability and dysfunction and improvements in the quality of life.

(d) While these goals focus on a limited number of topics, when fully developed over time the Guidelines will present a comprehensive statement of national health goals and cover the full range of health care issues. Additional statements and proposed changes will be based on reviews of HSPs, Annual Implementation Plans (AIPs), and State Health Plans (SHPs), as well as on new research findings and analyses and other experience gained in developing and applying the goals. The development of the National Guidelines will be a long-term process. Section 1501 of the Act requires that the Guidelines be reviewed each year.

(e) This proposal is divided into three categories. Category I proposes goals with respect to health status outcomes. Category II proposes goals with respect to disease prevention and health promotion. Category III proposes goals with respect to institutional and personnel resources and systems of care.

(f) The goals are first summarized below and then discussed in full.

SUPPLEMENT A TO § 121.101—SUMMARY STATEMENT OF GOALS

Part I: Health Status Outcomes

1. *Health Status Improvements.* Health status should be improved in all parts of the country and among all population groups, especially among medically underserved populations.

2. *Infant Health.* The health of infants should be improved by:

a. Reducing the incidence of low birth weight infants (prematurely born, or small-for-age infants weighing less than 2,500 grams) for every subgroup of the population (as defined by socioeconomic, ethnic and geographic characteristics) below the lowest reported current rate for such a subgroup; and

b. Reducing the infant mortality rate to less than 11 deaths per 1,000 live births by 1985 and to less than 9 deaths per 1,000 live births by 1990.

3. *Child Health.* Child health and development should be improved and death rates for those ages 1–14 reduced to less than 39 per 100,000 by 1985 and to less than 34 deaths per 100,000 by 1990.

4. *Preventable Communicable Diseases.* The incidence of preventable communicable diseases should be reduced, with a mortality rate of less than 22 deaths per 100,000 persons. Diseases and deaths preventable by routine childhood vaccination should approach zero. Measles should be eliminated as an endemic disease in the United States. Tuberculosis in children should be eliminated.

5. *Adolescent Health.* The health of adolescents and young adults should be improved and death rates for those aged 15 to 24 reduced to less than 105 per 100,000 by 1985 and to less than 93 deaths per 100,000 by 1990.

6. *Adult Health.* The health of adults should be improved and death rates for those aged 25–64 reduced to less than 472 per 100,000 by 1985 and to less than 400 per 100,000 by 1990.

7. *Older Adult Health.* The health and quality of life of older adults should be improved by:

a. Reducing the average annual number of days of restricted activity due to acute and chronic conditions for those age 65 and older to less than 33 days per year by 1985 and to less than 30 days per year by 1990; and

b. Reducing the average annual number of days of bed disability due to acute and chronic conditions for those age 65 and older to less than 13.0 days per year by 1985 and to less than 11.6 days per year by 1990.

8. *Alcoholism.* The prevalence of alcoholism and related disabilities and deaths should be reduced by at least 5 percent.

9. *Drug Abuse.* Drug abuse should be reduced by:

a. Reducing the proportion of youths age 12–17 years of age using marijuana and phencyclidine (PCP) to below 1977 levels;

b. Decreasing by at least 20 percent the use of barbiturates and other potentially harmful sedatives used for the treatment of insomnia; and

c. Reducing the annual number of amphetamine prescriptions written for the treatment of weight reduction by 20 percent.

10. *Oral Health.* Oral health status should be improved so that (1) for persons 17 years of age, at least 85 percent retain all of their permanent teeth and (2) for persons 55 to 64 years of age, at least 80 percent retain some natural teeth.

11. *Heart Disease, Cancer and Stroke.* Age-adjusted death rates for heart disease should be reduced to 156 per 100,000 persons and for stroke to 29 per 100,000 persons by 1985. Efforts should be directed toward improvements in survival rates through detection and treatment for all types of cancer.

Part II. Disease Prevention and Health Promotion

1. *Extension of Disease Prevention and Health Promotion.** Health promotion and disease prevention should be extended through both individual and community actions with emphasis on high risk populations, and be an integral component of care provided by health care and other community institutions.

2. *Consumer Information**. People should be better informed as to how, when, and where to get health care of an appropriate kind and quality at a reasonable cost.

3. Prenatal, Maternal and Perinatal Care*. Programs should be established to assure that all pregnant women receive adequate prenatal, puerperal and post partum care and that newborns receive adequate perinatal care.

4. *Unitended Pregnancy**. The rate and adverse consequences of unintended pregnancy should be reduced, particularly among teenagers and other high risk groups.

5. *Immunization**. An immunization level of at least 90 percent should be maintained for all children under 15 years of age, and newborns immunized at the earliest appropriate time against polio, measles, rubella, diphtheria, mumps, pertussis, and tetanus.

6. *Environmental and Occupational Health**. Environmental and occupational related morbidity and mortality should be reduced through the protection from and reduction of environmental and occupational hazards..

7. *Accidents**. Accidents in the home, during recreation, at work and on the highway should be prevented. Particular efforts should be made to reduce accidents involving children.

8. *Fluoridation**. Community water supplies containing insufficient natural fluoride should be fluoridated to optimal levels for the prevention of dental caries. In areas where community water fluoridation is not feasible, other appropriate fluoride measures should be implemented.

9. *Nutrition**. People should be informed about what constitutes good nutrition and should be encouraged and aided in obtaining a proper diet.

10. *Smoking**. Communities, working through all available institutions and media, should strive to discourage the initiation of the smoking habit among young people, and to break the habit among those who smoke.

Part III: Institutional and Personnel Resources and Systems of Care

A. *Service Delivery.*

1. *Access to Care**. Every person should have access to the full range of health care services. Equal access to needed health care services for all population subgroups (including racial and ethnic minorities, the elderly, the handicapped, and low income persons) should be fostered through the elimination of financial, physical, geographic, transportational, organizational and other barriers unrelated to the need for care. Planning and review decisions must take into account the specific health care needs of these groups and should give a priority to projects which seek to address these needs.

2. *Primary Care**.

a. *Supply.* The supply of primary care physicians in a health service area should be at least one physicain per 2,000 population under certain circumstances, services should be enhanced through more effective utilization of other health personnel including physicians' assistants and nurse practitioners.

b. *Balance Among Medical Specialties.* To the extent that shortages or excesses of primary care personnel or medical specialties exist and are documented, these imbalances should be corrected.

c. *Integration of Mental Health.* The integration of mental health services in general health care delivery programs should be increased through in-service mental health training of primary care providers and placement of mental health professionals in primary care programs.

3. *Mental Health**. An increasing proportion of mentally ill persons should be restored to productive living by:

a. developing community-based services for unserved, underserved, or inappropriately served populations, especially children and youth, the aged, the chronically mentally ill, racial and ethnic minorities, poor persons, and persons in rural areas.

b. minimizing unnecessary or inappropriate institutionalization and ensuring that persons requiring long-term residential care due to mental illness or disability receive such care in the least restrictive settings which assure high quality care and services appropriate to the patient's needs, and

c. providing economical and high quality health facilities for chronic mental patients who require prolonged periods of care.

4. *Child Mental Health**. Services should be available to improve the level of social and cognitive functioning for children identified as "most in need" of mental health services.

5. *Alcoholism and Drug Abuse**. Alcoholism and drug abuse services should be organized in ways that further the development of comprehensive community-based prevention and treatment services, and which are integrated into the mainstream of health care.

6. *Dental Services**. Dental services should be available to all persons who would seek dental care if it were reasonably accessible; an increasing proportion of persons should regularly seek and obtain adequate dental services.

B. *Systems of Care.*

1. *Regionalization**. Providers of health services should be organized into regionalized networks which assure that various types and levels of services are linked together to form comprehensive and efficient systems of care. These networks

*Goals marked with an asterisk grow out of the National Health Priorities contained in section 1502 of the Statute. They will be identified as such in the text following the goal statements.

should work to improve access to health services, eliminate unnecessary duplication of services, and improve quality.

2. *Multi-Institutional Systems and Shared Services**. Efficiency and productivity of health care institutions should be furthered through the development of multi-institutional arrangements for the sharing of clinical, administrative and support services.

3. *Emergency Medical Systems**. Networks of emergency medical services systems should be developed and improved in order to effectively coordinate the delivery of emergency medical care to all who require it.

4. *Options for Care**. Every resident within the health service area should have available the widest possible range of options for health care services with respect to both the organizational model for delivery and financing mechanisms.

a. The option of joining a federally-qualified or similarly constituted health maintenance organization should be available to every resident.

b. The number of group practice arrangements for the delivery of medical care should be substantially increased.

5. *Quality of Health Services**. The quality of health services should be improved by:

a. Reducing inappropriate variations in hospital utilization;

b. Reducing inappropriate variations in the incidence of surgical procedures;

c. Reducing inappropriate and medically unnecessary utilization of ancillary services;

d. Identifying and eliminating substandard care; and

e. Health planning and review decisions taking into account the results of quality assessment and utilization reviews.

6. *Managment Procedures**. Efficiency and productivity of health care institutions should be furthered through the adoption of uniform cost reporting, equitable reimbursement arrangements, utilization reporting systems and improved management reporting procedures.

7. *New Technology**. When found safe and effective, the introduction of new procedures and equipment should take place in ways that enhance economy, equity and quality. Reimbursement policies should foster the appropriate use of all technology.

8. *Energy Conservation**. Efforts should be made to promote an effective energy conservation and fuel conservation program for health service institutions to reduce the rate of growth of demand for energy.

C. *Coordinating Community Resources.*

1. *Access to Support Services for the Chronically Ill and Handicapped.* A full array of support services should be accessible to those with chronic or prolonged illnesses and/or physical or mental handicaps.

2. *Services Coordination and Case Management.* There should be close coordination among the various health, social, rehabilitative and other human services which those with chronic or prolonged disabilities often require. Case management should be available to the chronically ill and handicapped to direct them to needed health and support services.

SUPPLEMENT B TO § 121.101—NATIONAL HEALTH PLANNING GOALS

Part I: Health Status Outcomes

Goal I.1 *Health Status Improvements.*

HEALTH STATUS SHOULD BE IMPROVED IN ALL PARTS OF THE COUNTRY AND AMONG ALL POPULATION GROUPS, ESPECIALLY AMONG MEDICALLY UNDERSERVED POPULATIONS

Health status in the United States has shown dramatic improvements. Life expectancy, which was only 47 years in 1900, now averages more than 73 years. Death rates are at their lowest in history and now stand at 882 deaths per 100,000 persons.

There have also been setbacks. The age-adjusted death rate for cancer is on the rise, from 130.2 per 100,000 persons in 1968 to 133.2 per 100,000 in 1978 (provisional). Deaths from suicide and homicide are at high levels among young adults. Sexually-transmitted diseases are again on the rise. Alcoholism and drug addiction continue to be serious problems. Drug-resistant tuberculosis is an emerging public health problem.

The ten leading causes of death are diseases of the heart, malignant neoplasms, cardiovascular diseases, accidents, influenza and pneumonia, diabetes mellitus, cirrhosis of the liver, arteriosclerosis, suicide, and certain causes of mortality in early infancy. (See Tables 2 and 3).

Significant differences in health status exist by geographic area. These also reflect variations in age distributions, death rates for specific age groups, and variations in rates for individual causes of death. Different environmental influences, health-related human behavior, socio-economic status, the availability of health services and the distribution of the population by age and density also contribute to substantial differences in morbidity and mortality rates. For example, life expectancy at birth in 1978 for white males and females respectively (provisional) was 70.2 and 77.8 years while for non-whites these figures were 65.0 and 73.6 years, respectively.

A number of other very significant health problems, such as mental illness, tuberculosis, arthritis, childhood infectious diseases, dental diseases and conditions, or visual problems, though not major killers for Americans, cause considerable suffering, sickness and economic loss.

Goal I.2. *Infant Health.*

THE HEALTH OF INFANTS SHOULD BE IMPROVED BY:

a. REDUCING THE INCIDENCE OF LOW BIRTH WEIGHT INFANTS (PREMATURELY BORN OR SMALL-FOR-AGE INFANTS WEIGHING LESS THAN 2,500 GRAMS) FOR EVERY SUBGROUP OF THE POPULATION (AS DEFINED BY SOCIOECONOMIC, ETHNIC AND GEOGRAPHIC CHARACTERISTICS) BELOW THE LOWEST REPORTED CURRENT RATE FOR SUCH A SUBGROUP; AND

b. REDUCING THE INFANT MORTALITY RATE TO LESS THAN 11 DEATHS PER 1,000 LIVE BIRTHS BY 1985 AND TO LESS THAN 9 DEATHS PER 1,000 LIVE BIRTHS BY 1990.

Infant mortality rates in the U.S. are at their lowest point in history. Provisional data through October 1979 shows a rate of 13.1 deaths per 1,000 live births, a reduction of 3.7 percent from 1978 (Table 6). In October 1979 alone, infant mortality dropped to 12.9 percent, or 4.4 percent lower than in October 1978. These improvements have been due primarily to better nutrition, better housing and such factors as improved prenatal, obstetrical and pediatric care. If current trends continue, a rate of 11 deaths per 1,000 live births by 1985 and 9 deaths per 1,000 live births by 1990, the goal established in *Healthy People*, the Surgeon General's Report on Disease Prevention and Health Promotion, is attainable.

Nonetheless, among industrialized nations the United States ranked twelfth in infant mortality in 1977, and the first year of life continues to be the most hazardous period a person faces until he or she reaches age 65.

Low birth weight is the most likely explanation for the high infant mortality rate in the United States. In 1976, about 7 percent of all new-borns weighed less than 2,500 grams (5.5 pounds). In Sweden, this figure was 4 percent. At the present time, two-thirds of all infant deaths in this country occur among infants weighing less than 2,500 grams at birth. Infants below this weight are more than twenty times as likely to die within the first year after birth.

Lowering the number of low birth weight infants should result in substantial reductions in infant mortality, and thus should be a major public health goal. This effort should also narrow the present gap in infant mortality among different population groups. The 1977 rate for white infants for example, was 12.3 deaths per 1,000 live births, but was 21.7 deaths per 1,000 for other infants, or about 76 percent higher. Black infants are nearly twice as likely to die before their first birthday as whites. The rate also varies considerably in different parts of the country (Tables 5, 7). Particular attention needs to be paid to health service areas and population groups where the infant mortality rate is higher than 11 per 1,000 live births.

Many maternal factors are associated with low infant birth weight. They include infectious diseases, lack of prenatal care, poor nutrition, smoking, alcohol and drug abuse, age (especially youth of the mother), marital status, and social and economic background.

An expectant mother who receives no prenatal care is three times as likely to have a low birth weight child, especially since these mothers are likely to have other risk factors working against them. Regular prenatal care reduces this risk not only because medical and obstetrical services benefit mother and child, but also because the expectant mother is more likely to receive social and family support services as well.

Nutrition is another critical factor. Pregnant women lacking proper nutrition have a greater chance of bearing either a low birth weight or stillborn infant. Maternal cigarette and alcohol consumption also are hazardous for the child. Smoking slows fetal growth, doubles the chance of low birth weight and increases the risk of stillbirth. Some studies suggest that smoking may be a significant contributing factor in 20 to 40 percent of low birth weight infants born in the U.S. and

Canada. Alcohol use by pregnant women has also been found to represent a potential hazard to the development of the fetus. Heavy alcohol use has been associated with a variety of birth anomalies, including a cluster of distinctive physical and mental impairments known as the Fetal Alcohol Syndrome. Reports in the literature have placed this disorder as the third leading cause of birth defects with associated mental retardation—following Down's Syndrome and spina bifida—and the only one of the three that is preventable. In addition, increased risk for a range of less severe birth anomalies has been noted for women who reported drinking between 1 and 2 ounces of absolute alcohol per day (2–4 standard drinks).

Maternal age and marital status are other determinants of infant health. Teenage and unmarried mothers (who are most likely to be in their teens) are twice as likely as others to have infants of low birth weight.

Low birth weight is twice as common among blacks and some other minorities, regardless of income level. Low birth weight is associated with socioeconomics status as well as race. (See Table 5)

Many other conditions and diseases also contribute to the high rates of infant mortality which exist in the U.S. They include birth defects, such as congenital physical defects; mental retardation; genetic diseases; injuries at birth; sudden infant death syndrome; accidents; pneumonia viral and other bacterial infections; inadequate diets; and poor prenatal care. Not all problems of infant health, however, are reflected in mortality and mobidity figures. It is also important to foster early detection of developmental disorders during the first year of life so as to maximize the benefits of care. The first year is a significant period for laying the foundation for sound mental health as well. Programs are needed to increase parent-infant bonding and improve familial relationships with infants as well as programs to increase parental knowledge of normal infant/child development and appropriate infant/child care procedures.

Goal I.3. *Child Health.*

CHILD HEALTH AND DEVELOPMENT SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGES 1–14 REDUCED TO LESS THAN 39 PER 100,000 BY 1985, AND TO LESS THAN 34 DEATHS PER 100,000 BY 1990

Although there have been significant improvements in child health and the impact of communicable diseases on this age group is only a small fraction of what it has been in the past, these diseases still have a major impact on the health of children. In 1977, for example, approximately 40 percent of the nation's children, ages one to four, were inadequately immunized against communicable diseases, and 20 million of the 52 million young people under the age of 15 were not protected against the diseases for which vaccines are available.

Habits and attitudes developed during this period can provide early antecedents to adult disease and disability. As many as 40 percent of school children aged 11 to 14 have been estimated to have one or more of the risk factors associated with heart disease: overweight, high blood cholesterol, cigarette smoking, hypertension, poor physical fitness, or diabetes. Parents and school children should learn to recognize and deal with these factors.

A wide variety of other problems may substantially affect a child's well-being, including problems related to nutrition, dental caries, mental or emotional retardation, and growth and development. Children under 18 years of age, especially those eligible for Medicaid, should be brought into a system of ongoing and comprehensive primary health services which offer preventive, diagnostic, and treatment services, as appropriate for each age.

Episodes of acute illness constitute the most common morbidity problem among children. Respiratory illnesses and childhood diseases result in a large volume of short-term disability and medical care use.

Death rates for children decreased from a rate of 330 child deaths per 100,000 in 1925 to 90 per 100,000 in 1950 to approximately 43 in 1978 (provisional). Despite these improvements, significant variations among different population groups remain. Minority children have a 46 percent higher death rate (56.4 per 100,000), and minority preschool children have a 50 percent higher death rate than do white children. In addition, the overall rate of decline in child mortality has slowed. Special attention is needed in areas where the death rates for children between 1 and 14 years of age rise above 39 per 100,000.

The Surgeon General's Report on Disease Prevention and Health Promotion set as its goal a 20 percent reduction by 1990 from 1977 child death rates. Reducing by one-half the number of fatal accidents in this age group alone would achieve the reduction. Accidents cause 45 percent of all childhood deaths and are the major cause of death among children. Cancer, birth defects, influenza and pneumonia, and homicide are other leading causes.

The goals contained in this document are based on both the Surgeon General's Report and the potential impact of the various interventions currently available. A ten percent reduction in child mortality to 39 deaths per 100,000 is to be achieved by 1985. A 20 percent reduction to 34 deaths per 100,000 is sought by 1990.

Goal I.4 *Preventable Communicable Diseases.*

THE INCIDENCE OF PREVENTABLE COMMUNICABLE DISEASES SHOULD BE REDUCED, WITH A MORTALITY RATE OF LESS THAN 22 DEATHS PER 100,000 PERSONS. DISEASES AND DEATHS PREVENTABLE BY ROUTINE CHILDHOOD VACCINATION SHOULD APPROACH ZERO. MEASLES SHOULD BE ELIMINATED AS AN ENDEMIC DISEASE IN THE UNITED STATES. TUBERCULOSIS IN CHILDREN SHOULD BE ELIMINATED

Achievement of this goal represents a one-third reduction from 1977 mortality rates. In 1977, four States were below the target level of 22, and seven States were approaching it. All States could reach the desired levels by intensifying communicable disease prevention efforts. (Table 9) Special attention must be directed towards the poor, blacks and other minorities who remain at higher risks for all preventable diseases because of lower immunization levels.

There were approximately 69,000 deaths from preventable communicable diseases in 1977, or 32 per 100,000 persons, including infectious and parasitic diseases, acute bronchitis, and influenza and pneumonia for all ages. (Table 10)

Disease of childhood which cause significant morbidity but contribute little to the overall infectious disease mortality rate include diphtheria, pertussis, polio, measles, rubella, mumps and tuberculosis. If all children were adequately immunized or treated preventively, many of the permanent physical handicaps these diseases can cause would be virtually eliminated. A reduction in the present rates of morbidity and mortality and the ultimate attainment of as close as possible to no cases of childhood diseases which can be prevented by vaccination is a desirable and achievable goal for every community. But, each year more than 3 million infants are born who must be immunized early to prevent a recurrence of the diseases and their long-term effects.

Measles is now considered the most severe contagious childhood disease. Its frequent complications include pneumonia, ear infections, deafness, encephalitis, permanent brain damage, and mental retardation. About one of every 10,000 children with measles will die, usually as a result of complications. All children should be vaccinated against rubella (German measles) before puberty. Because severe damage to unborn children can occur if the mother is affected early in pregnancy, all susceptible females who are not pregnant also should be vaccinated.

Tuberculosis is a serious disease of children because of the potential complications of meningitis which may lead to severe brain damage and death. Because of its severity, special efforts should be directed towards eliminating tuberculosis among children.

Because incidence and mortality rates vary significantly due to epidemics, the most recent five-year average rates should be used as a basis for monitoring achievement of this goal.

Goal I.5. *Adolescent Health.*

THE HEALTH OF ADOLESCENTS AND YOUNG ADULTS SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGED 15 TO 24 REDUCED TO LESS THAN 105 PER 100,00 BY 1985 AND TO BE LESS THAN 93 DEATHS PER 100,000 BY 1990

Despite improvements over the past 75 years, death rates for adolescents and young adults are now increasing. Death rates were 106 per 100,000 in 1960, and 117 per 100,000 in 1977. Preliminary 1978 statistics show an increase to 120 per 100,000.

The goal of less than 93 deaths per 100,000 is consistent with *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. It represents a 20 percent reduction by 1990 from current adolescent death rates. This goal is attainable with increased efforts, particularly in accident, alcohol and drug abuse control and homicide and suicide

prevention. The goal of 105 deaths per 100,000 represents 10 percent reduction in 1977 adolescent mortality rates, to be reached by 1985, and is consistent with the 1990 target date.

The principal health problems for adolescents and young adults include violent death and injury, sexually transmitted diseases, unwanted pregnancies, alcohol and drug abuse, dental diseases, and emotional problems. Violent deaths such as those resulting from accidents, homicides and suicides account for three-fourths of all deaths among adolescents and young adults. Sexually transmitted diseases (STD) cause considerable morbidity in this age group. Pelvic inflammatory disease is a major consequence of STD in women, with subsequent risks of ectopic pregnancy and lifelong impairment of fertility. Special consideration should be given to the needs and problems, both physical and psychological, of individuals in this age group.

There is substantial variation in death rates among different population groups. Traumatic deaths occur three to four times as frequently for males as for females. Deaths caused by motor vehicle accidents are more likely to occur among white youth. Young blacks of either sex are at least five times as likely to be murdered as young whites. Homicide is the leading cause of death for young blacks, ranking slightly ahead of accidents.

Goal I.6. *Adult Health.*

THE HEALTH OF ADULTS SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGED 25–64 REDUCED TO LESS THAN 472 PER 100,000 BY 1985 AND TO LESS THAN 400 PER 100,000 BY 1990

Although death rates for adults ages 25 to 64 have increased from 640 deaths per 100,000 in 1960 to 657 per 100,000 in 1970, there has been an average annual decrease of 2.6 percent since 1970. The 1977 adult death rate was 540 per 100,000, and preliminary data shows a further 2.2 percent decrease to 528 for 1978. This varies by area, and particular attention should be given to areas and population groups where the mortality rate of adults is high.

The goal of less than 400 deaths per 100,000 population represents a 25 percent reduction by 1990 from current adult death rates and is consistent with the goal set in *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. This goal is attainable provided the steady drop in adult mortality which has been observed since 1970 continues. The goal of 472 deaths per 100,000 represents an approximate 12.5 percent reduction in current adult mortality rates, to be reached by 1985, and is consistent with the 1990 target rate.

The leading causes of death in this age group are heart disease, cancer, stroke and cirrhosis of the liver. Accidents are a prominent problem for the younger members of this group, but overall the chronic diseases predominate. More than one-third of all deaths in this group are due to cardiovascular diseases, principally coronary artery disease and stroke. However, such deaths have declined in recent years and account for most of the recent decreases in mortality. In addition to the various causes of death, dental diseases and disability from mental illness present major health problems for this age group.

Goal I.7. *Older Adult Health.*

THE HEALTH AND QUALITY OF LIFE OF OLDER ADULTS SHOULD BE IMPROVED BY:

A. REDUCING THE AVERAGE ANNUAL NUMBER OF DAYS OF RESTRICTED ACTIVITY DUE TO ACUTE AND CHRONIC CONDITIONS FOR THOSE AGE 65 AND OLDER TO LESS THAN 33 DAYS PER YEAR BY 1985 AND TO LESS THAN 30 DAYS PER YEAR BY 1990; AND

B. REDUCING THE AVERAGE ANNUAL NUMBER OF DAYS OF BED DISABILITY DUE TO ACUTE AND CHRONIC CONDITIONS FOR THOSE AGE 65 AND OLDER TO LESS THAN 13.0 DAYS PER YEAR BY 1985 AND TO LESS THAN 11.6 DAYS PER YEAR BY 1990.

More Americans are living to an older age than ever before. In 1900, there were only 3.1 million people aged 65 and over in the United States, and they accounted for only four percent of the population. The 65 and over group is the fastest growing segment of the population. By the year 2030, there will be more than 50 million Americans 65 years or older, and they will represent nearly 17 percent of the population.

In 1900, the average life span was 47 years. By 1978, it had increased to more than 73 years. Eighty percent of the elderly have one or more chronic conditions, and their medical treatment accounts for 29 percent of the nation's health care expenditures. The elderly have 50 percent more physician visits, and have more and longer hospital admissions. The leading cause of death for this age group are heart disease, cancer, stroke, influenza, and pneumonia.

In 1976, about 9.9 million of the 21.8 million persons aged 65 or older, or 45 percent, had some activity limitations due to chronic conditions. Some limitations are associated with mental disabilities, but most are due to physical handicaps caused by heart conditions, arthritis and rheumatism, hearing loss, and visual impairments among others (Table 111). Up to 20 percent of older people (between one-third and one-half of those with any activity limitations) are limited in their ability to move about freely.

One measure of the impact of illness, both chronic and acute, is the total number of restricted bed days per person per year, a subset of restricted activity days. The average number of days an older person's activities are limited, regardless of the reason, has not changed much in the past ten years, ranging from 31 to 38 days per person per year. Bed disability days, however, has shown a constant increase from 12.9 days per person over age 65 per year in 1969 to 14.3 in 1974 and 14.5 in 1978.

In meeting the needs of the elderly, it is important to consider not only the need to increase longevity or to reduce death rates, but to allow each individual to seek an independent and rewarding life in old age, unlimited by the variety of health and social problems that are within his or her capacity to control. Health, social, day care, medical and dental services should be provided to prevent the loss of functional abilities, minimize the effect of the loss when it occurs, and rehabilitate to the maximum extent feasible. Special attention needs to be paid to the poor and minority elderly.

Studies have shown that the elderly have improved feelings of well-being, and significantly decreased disease and disability, when they are allowed to take as much control and responsibility for their own day-to-day care as possible. Programs to encourage the exercise of self-responsibility in such settings as nursing homes, and to teach stress management techniques to the elderly, can have positive effects on physical and emotional health, as well as personal and social happiness.

A critical problem is to match each individual to that setting which will allow the most appropriate type and level of care. Access to noninstitutionalized services which reduce dependency and allow individuals the opportunity to function in their normal environment promotes both mental and physical health and preserves individual dignity. Alternatives to institutionalization include: day health care centers, outpatient clinics, community care organizations, and mobile health units. Since more than half of those over 65 with incomes below the poverty line live alone, these services could be a valuable adjunct to maintaining independent living arrangements.

The goal of an average of less than 30 days of restricted activity per year due to acute and chronic conditions to be reached by 1990 is consistent with *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. This is a 20 percent decrease from the 1977 rate of days of restricted activity. The goal of 33 days of restricted activity per year due to acute and chronic conditions to be reached by 1985 represents a 10 percent reduction in current rates and is in line with the longer range target.

In recent years, annual rates have shown significant year-to-year variation not indicative of overall trends. For this reason, multiple-year averages of annual rates of days of restricted activity should be employed where possible as a basis for monitoring goal achievement.

The goal of an average of 11.6 days of bed disability is also consistent with reductions in the Surgeon General's Report, representing a 20 percent decrease from the 1977 rate of 14.5 days of bed disability. The target of 13.0 days of bed disability per year to be reached by 1985 represents a 10 percent reduction in current rates, and is in line with the longer range target.

Goal I.8 *Alcoholism.*

THE PREVALENCE OF ALCOHOLISM AND RELATED DISABILITIES AND DEATHS SHOULD BE REDUCED BY AT LEAST 5 PERCENT

The disease of alcoholism and the associated problems of alcohol abuse constitute a very significant health problem.

Approximately 10 million persons aged 18 years and over are problem drinkers and their drinking affects the lives of 40 million

more people. Alcohol-related deaths accounted for nearly 11% of the total deaths in the United States in 1975, and clinical studies have consistently found that abusive alcohol consumption is associated with mortality and morbidity rates that are 2 to 6 times higher than rates for the general population. A significant number of traffic and other accidents have been attributed to alcohol use. Alcohol has been found to be significantly involved in half of all motor vehicle traffic fatalities and one third of all traffic injuries.

Studies have found that up to 40 percent of fatal industrial accidents, 83 percent of drownings, 87 percent of fire fatalities, and 70 percent of fatal falls were alcohol related. Alcohol use has frequently been implicated in homicides and assaultive behaviors, including spouse and child abuse, and studies have found that more than one third of all suicides involve alcohol.

In terms of medical and health problems, alcohol has been found to impact on a wide range of physiologic systems and biomedical disorders. Although the rate of deaths from cirrhosis has been gradually decreasing, liver cirrhosis, which is predominantly associated with alcohol use, still ranked as the seventh leading cause of death in 1975. Alcohol is directly related to certain neuropsychiatric diseases, such as Wernicke-Korsakoff's syndrome, and is frequently associated with a range of emotional and mental problems such as depression. The use of alcohol has been found to be associated with malnutrition, increased infection (e.g., pneunomia), and a variety of gastronintestinal problems including pancreatitis and inflammatory and bleeding lesions of the stomach.

Alcohol use by pregnant women has been found to impair the development of the fetus. Heavy alcohol use has been associated with a variety of birth anomalies, including a cluster of distinctive physical and mental impairments known as the Fetal Alcohol Syndrome. In addition, increased risk for a range of less severe birth anomalies has been noted for women who reported drinking between 1 and 2 ounces of absolute alcohol per day (2–4 standard drinks).

Alcohol has been found to be associated with a variety of cardiovascular problems, including a specific cardiomyopathy, cardiac arrhythmias, and depressed myocardial contractility. Moreover, there is evidence that alcohol can act to increase the risk of developing certain cancers, particularly in combination with tobacco use. Heavy alcohol consumption has been associated with increased risk for cancers of the tongue, mouth, pharynx, esophagus, larynx, and liver. These constitute 6 to 9 percent of all cancers in the white population in the United States and 12 percent of cancers in the Black population.

Seventy percent of today's teenagers have tried alcoholic beverages. Of the 16.9 million people in the 14 to 17 age group, 3.3 million are estimated to be problem drinkers. Alcohol problems among youth tend to be acute rather than chronic. More specifically, alcohol problems among youth typically involve consumption of large amounts of alcohol, followed by impaired driving performance, accidents, aggression and violence, disturbed interpersonal relationships, property damage and impaired school and/or job performance.

An estimated 24 percent of the adult problem drinking population is female, and this estimate is probably low. Few treatment facilities provide care targeted to this population, as reflected in the fact that only 17.5 percent of the population in treatment are women.

The far-reaching consequences of alcoholism affect all aspects of American life, affecting the non-drinker as well as the drinker. For example, the total cost to the Nation was estimated to be over $42 billion in 1975. Of special concern is the estimate that approximately $12.7 billion of this amount was expended on alcohol-related health and medical problems. The $8.4 billion spent for hospital care was nearly 20 percent of all hospital expenditures for adults during 1975. (Table 12)

Since alcoholism is a very complex but treatable illness, a wide range of prevention programs and treatment services need to be available. Health Systems Agencies need to encourage alcohol services as a routine and integral component with existing services. To obtain data on the prevalence of alcoholism and related disabilities HSAs are encouraged to contact their State alcoholism authority.

Evidence from epidemiologic research indicates that the greatest amount of chronic, damaging drinking occurs among employed persons and their families. A large proportion of the 10 million problem drinkers in the nation are found in the work force.

Strategies to minimize the health and economic costs of alcoholism should involve the development of occupational alcoholism programs and early identification and treatment of individuals with alcohol problems likely to produce other health consequences such as cirrnosis of the liver. Prevention programs should be aimed at all youth but particularly those who drive while intoxicated. Prevention programs should also be aimed at women. Both populations have been underserved.

Goal I.9. *Drug Abuse.*

DRUG ABUSE SHOULD BE REDUCED BY:

a. REDUCING THE PROPORTION OF YOUTH AGE 12–17 YEARS OF AGE USING MARIJUANA AND PHENCYCLIDINE (PCP) TO BELOW 1977 LEVELS;

b. DECREASING BY AT LEAST 20 PERCENT THE USE OF BARBITURATES AND OTHER POTENTIALLY HARMFUL SEDATIVES USED FOR THE TREATMENT OF INSOMNIA; AND

c. REDUCING THE ANNUAL NUMBER OF AMPHETAMINE PRESCRIPTIONS WRITTEN FOR THE TREATMENT OF WEIGHT REDUCTION BY 20 PERCENT.

Marijuana and PCP

Drug abuse among young people is a continuing public health concern. Society discourages any use of psychoactive substances during adolescence because of the adverse effects such use could have on a young peron's physical and emotional development. Disruption of these critical processes could leave a youth without the necessary skills and maturity to cope with later adult responsibilities.

Recent survey data (The National Survey on Drug Abuse: 1977, and Drug Use Among American High School Students: 1975 to 1977) suggest that there is abundant reason for concern about adolescent drug use. Most noteworthy among the findings of these surveys is the rapid increase between 1974 and 1977 in marijuana use both among 12 to 17 year olds in the general population and among high school seniors. The relatively stable trends reported for other drugs indicate this increase was not simply part of a general trend toward increased psychoactive drug use of all types.

Increased marijuana use among young people is worrisome for two reasons. First, our understanding of the long-term impact of marijuana use during the important developmental years of adolescence is incomplete. We simply do not know what the long-term effects of marijuana use will be during this period. Second, there is increasing evidence that marijuana is a "gateway" drug for many individuals who later become involved in dysfunctional drug use. The implication here is not that marijuana inevitably leads to more serious drug involvement; rather, marijuana use is seen as a stage—a "gateway"—through which those who eventually become dysfunctional drug users may pass. Thus, prevention efforts in connection with marijuana should focus on young people who are as yet minimally involved in drug abuse experimentation.

Assuming continuation of current conditions (i.e., that marijuana remains illegal, but with a continuing relaxation of criminal sanctions against possession for personal use), and assuming no major changes in the available evidence regarding health hazards associated with the drug, "current" marijuana use levels for the 12–17 population are projected at 22.2 percent in 1985. Since the projection is based on limited data which may not reflect stable, long-term trends, periodic recalculation will be required to reflect data that will become available during the next few years. The 15 percent reduction target sets the 1985 use at 18.9 percent. This can be achieved by employing a variety of health promotion and drug prevention strategies which encompass information, education, alternatives, and intervention.

A drug whose use has increased four-fold from 1976–1978 is phencyclidine (PCP). Known on the street as "Angel Dust" and by a variety of other names, PCP can be synthesized relatively easily from widely available precursor chemicals. The many industrial uses of these chemicals reduce the effectiveness of law enforcement efforts in controlling the drug's availability. As a result, PCP, like marijuana, is widely and readily available at a price that young people can afford. The effects of PCP use are unpredictable, and chronic use is associated with a variety of negative consequences. Overdose symptoms range from an inability to coordinate one's movements, catatonic staring and assaultiveness to convulsions, respiratory depression, and, in extreme cases, coma and death. Although present data systems underestimate the frequency of PCP-

related emergencies (due to the frequent misrepresentation of PCP as other drugs), available data suggest a startling increase in the number of PCP emergencies during the past two years.

Reduction to 1977 levels of marijuana and PCP usage can be achieved through increased drug prevention efforts in and out of schools. These include but are not limited to school and community health education and the encouragement of alternatives to drug abuse. It is believed that information on the health hazards of PCP use can have an impact on levels of use if the information is accurate and disseminated widely. The achievement of these goals requires active involvement and cooperation between education, health, criminal justice and employment services. Health Systems Agencies can foster such coordination.

Barbiturates

In recent years, there also has been increased concen about the risks associated with the use of sedative-hypnotics, in particular "short-acting" barbiturates and some of the non-barbiturate, nonbenzodiazepine drugs, whose potential for abuse is well documented. They are the second most common group of drugs associated with deaths. Equally effective and safe alternative drugs are available.

During the past few years, various Federal agencies have reviewed the risks and benefits associated with sedative-hypnotic drugs as a general class and with the barbiturates in particular. The Federal Government has been concerned about the barbiturates since the early 1970s when high morbidity and mortality levels resulted in a tightening of legal controls on the manufacture and distribution of barbiturates. The number of deaths in which barbiturates were identified as the underlying cause has declined markedly from over 2,600 in 1970 to under 1,300 in 1976.

While a substantial number of deaths involving barbiturates are of a suicidal nature, many also result from ignorance of the potentially lethal effects of barbiturates used in combination with other central nervous system depressants such as alcohol. The mortality associated with barbiturate use could be reduced by a concerted effort to educate physicians and patients about the risks associated with the use of barbiturates in combination with other drugs.

The 20 percent reduction in use of barbiturates and other potentially harmful sedatives used in the treatment of insomnia can be achieved with increased efforts over the next few years. These efforts should include physician education to reduce the total availability of these drugs, public information and education, the encouragement of alternative treatment methods, and promoting drug abuse prevention and treatment as a routine and integral component of existing health and other human services.

Amphetamines

Two national reporting systems (the Drug Abuse Warning Network—DAWN, and the Client-Oriented Data Acquisition Process—CODAP) of the National Institute of Drug Abuse (NIDA) reveal that amphetamines are common drugs of abuse among persons seen at emergency rooms and drug treatment facilities. Other national drug abuse survey data clearly indicate widespread nonmedical use of amphetamines. (The three medically-approved uses of amphetamines are for minimum brain dysfunction, narcolepsy, and obesity). While a dramatic decline occurred in amphetamine prescriptions between 1970 and 1974, the number has remained essentially unchanged since then, following a reclassification of amphetamines from Schedule III to Schedule II by the Controlled Substances Act of 1970. The National Prescription Audit data also shows a similar decline in amphetamine prescriptions between 1970 and 1974, but little change in the numbers of amphetamine prescriptions between 1974 and 1976. This information suggests an amphetamine-associated morbidity with the numbers of prescriptions written for these drugs over the last several years.

Amphetamines are prescribed primarily for obesity. A number of nonamphetamine anorectics are equally effective, yet they apparently lack the appeal of amphetamines as drugs of abuse, as they are seldom implicated in drug-associated morbidity, recreational or compulsive use. Study findings reveal that the choice of a particular drug to use on a weight reduction program is largely a matter of individual preference of the prescribing physician. Through increased efforts at both physician and public education, the goal of a 20 percent reduction in such prescribing can be achieved.

The National Disease and Therapeutic Index and/or the National Prescription Audit, a proprietary index, can be used to monitor progress towards the achievement of reducing the annual number of amphetamine prescriptions.

Goal I. 10. *Oral Health.*

ORAL HEALTH STATUS SHOULD BE IMPROVED SO THAT (1) FOR PERSONS 17 YEARS OF AGE, AT LEAST 85 PERCENT RETAIN ALL OF THEIR PERMANENT TEETH AND (2) FOR PERSONS 55 TO 64 YEARS OF AGE, AT LEAST 80 PERCENT RETAIN SOME NATURAL TEETH

Optimal oral health is characterized by a full complement of functional natural teeth and supporting tissues free of disease. Virtually every person experiences tooth decay (dental caries), and most persons also develop periodontal disease. Based on current knowledge, each of these diseases usually can be prevented or controlled. If either disease is neglected tooth loss results.

Dental caries is localized, progressive destruction of the tooth initiated by acid demineralization of tooth enamel. It can be prevented through (1) reduction of bacteria on the teeth through a proper personal oral hygiene regimen and regular prophylaxes given by a dental hygienist or dentist; (2) avoidance of highly cariogenic foods and snacks, particularly refined sugar, which react with the bacteria to form acid on the teeth; and (3) optimum intake of fluoride from birth to provide the tooth surface with optimal resistance to acid dissolution.

Caries begins in early childhood by attacking the primary teeth and is a continuing problem in the permanent teeth. By the time children reach 17 years of age, 94 percent have experienced caries in their permanent teeth. Many adults also develop new caries and have continuing dental problems resulting from the effects of caries experienced during childhood.

Periodontal disease is an inflammatory disease which progressively affects the gingival tissues (gums) which surround the teeth and then the alveolar bone supporting the teeth. The most common type of periodontal disease, gingivitis or inflammation of the gum, affects both children and adults. If not controlled, gingivitis usually develops into periodonitis, the chronic destructive stage of the disease, which mostly affects adults and is most common in persons 45 years of age and older. Preventive measures include (1) a proper personal oral hygiene regimen, (2) regular prophylaxes given by a dental hygienist or dentist, and (3) prompt treatment when the disease occurs.

The total number of persons who have experienced periodontal disease is not known; however, the extensiveness of the disease is reflected in findings of the national health examination survey conducted during 1971–1974. Among children, 14 percent of the 6–11 years olds and 32 percent of the 12–17 year olds had gingivitis at the time they were examined. Among adults who still had some of their natural teeth, 44 percent of the 18–44 year olds, 56 percent of persons 45–64 years of age, and 64 percent of those 65–74 years old had either gingivitis or destructive periodontal disease.

Regular dental checkups to detect caries and periodontal disease and prompt therapy when they are diagnosed are the major factors in controlling these diseases and in preventing tooth loss. Yet, only one half of the population visits a dentist each year and nearly two-thirds of the population has unmet needs for treatment of dental diseases, primarily dental caries and periodontal disease.

Because of the inevitability of tooth loss if dental caries and periodontal disease are not controlled, a useful and easily determined indicator of progress being made toward improving the oral health status of a population is the percent of persons who retain their permanent teeth. By establishing two goals on tooth retention, one for 17 year olds and one for persons 55–64 years of age, short-term progress in oral health improvement can be monitored for both the child and the adult populations.

In the early 1970's, only 62 percent of the 17 year olds retained all of their permanent teeth (Table 17). The children's goal aims five years hence to decrease by slightly more than one half the percentage of 17 year olds who are missing one or more permanent teeth.

The percentage of adults retaining at least some of their natural teeth decreases rapidly with age (Table 18). The decrease is particularly sharp for the 55–64 year age group. In the early 1970's only 66 percent of this age group still had some natural teeth present, as compared with 83 percent for the 45–54 age group. The adult goal aim five years hence to increase the percentage of persons aged 55–64 years who retain some of

their natural teeth to about the experience of 45–54 year olds in the early 1970's, thereby at least postponing total tooth loss to an older age.

Due to the progressive nature of dental caries and periodontal disease, the oral health status of adults to a large extent is the result of the preventive and therapeutic services they received as children and of the total hygiene practices and dietary habits they develop during childhood and continue into their adult lives. Therefore, the beneficial impact of newly developed dental preventive or treatment services resources on the overall oral health status of a population is not fully realized for a considerable time. Accordingly, attainment of the short-term goals started here will be only a step toward assuring optimum oral health for all.

Measures to help attain the short-term goals, such as improving accessibility of dental services to underserved population groups, as well as measures which will produce long-range results in improving the overall oral health status of a population, such as community water fluoridation, need to be initiated now.

Goal I. 11. *Heart Disease, Cancer and Stroke.*

AGE-ADJUSTED DEATH RATES FOR HEART DISEASE SHOULD BE REDUCED TO 156 PER 100,000 PERSONS AND FOR STROKE TO 29 PER 100,000 PERSONS BY 1985. EFFORTS SHOULD BE DIRECTED TOWARD IMPROVEMENTS IN SURVIVAL RATES THROUGH DETECTION AND TREATMENT FOR ALL TYPES OF CANCER

Nearly four of every 10 deaths during 1978 were attributed to heart disease, the leading cause of death for over fifty years. While age-specific death rates have decreased by approximately 19 percent between 1968 and 1978 as a result of improved methods of prevention, detection and treatment, the proportion of deaths due to heart disease has remained stable due to the increasing age of the population. The mortality rate for heart disease is higher for blacks than for whites.

The greatest possibilities for control of heart disease lie with preventive actions for reducing risks and promoting a healthful environment. Lifestyles and behavioral patterns, including an unhealthy diet, cigarette consumption, lack of exercise, obesity and psychological stress and most importantly, hypertension, have been associated with putting an individual at greater risk for heart disease.

Cancer is the second ranking cause of death in America. It has recently been estimated that one of four Americans will develop some form of cancer during their lifetime, and one of five will die from cancer.

Cancer affects every age group, both sexes, and every part of the body. For women, cancers of the breast, colon and rectum, uterus, lung, pancreas, and stomach, plus leukemia, account for more than 70 percent of cancer deaths. The principal fatal cancers among men are lung, colon and rectum, prostate, stomach, pancreas, leukemia and bladder. Among non-white adult males, there has been a startling increase in cancer deaths for some groups, possibly due to the large migration to industrial cities followed by employment-related exposure to carcinogenic chemicals and limited access to health care. Cancer mortality rates are twice as high for blacks as for whites.

Lung cancer, a disease with enormous potential for prevention, is responsible for the greatest number of cancer deaths. A strong causal association has been found between lung cancer and cigarette smoking. The average male smoker is 10 times more likely to develop lung cancer than is a nonsmoker.

An HEW Task Force recently concluded that, "Probably over 90 percent of malignant neoplasms are induced, maintained, or promoted by specific environmental factors." Recently, it was found that at least 20 percent of all cancers in the U.S. may be work-related.

The long latency periods characteristic of cancer etiology make it desirable to use a health status measure sensitive to short-term shifts in cancer trends, such as five-year survival rates, in measuring progress to 1985. This measures the proportion of cancer patients surviving to the fifth year following detection of their disease. The national experience indicates that dramatic improvements in five-year survival rates for many types of cancer are possible with improved detection and treatment modalities. While apparent improvements in survival rates for some cancers can be explained by earlier diagnosis, and thus no real health status change occurs, there are significant exceptions. For male prostate cancer, survival rates increased 11 percent for whites and 20 percent for blacks among those people diagnosed between 1967 and 1973 compared to those diagnosed between 1960 and 1966. Among both groups, the percent of cases in which the cancer was localized, a factor which indicates the stage of disease at the time of detection, remained unchanged. Case management must be considered a critical factor in this improvement.

HSAs should enourage the expansion of screening and self-examination programs, as well as the development of improved case management for all types of cancer. Particular attention should be directed to cancer types of major impact for subgroups of the population, such as leukemia among those under 15, and lung and prostate cancer among black males.

Stroke is a leading cause of disability and is the third leading cause of death. In 1978, it accounted for 9 percent of all mortality. Minorities and males are the primary populations at risk, as indicated by the 1977 age-adjusted death rates. (Tables 19, 20)

Over one-half of the estimated one-half million people who suffer their first stroke each year survive their first 30 days. Only 10 percent of those 500,000 people, however, recover without a discernible disability. This high disability percentage underscores the importance of access to and utilization of rehabilitation therapy and long-term care.

While more knowledge is needed regarding the personal and environmental factors associated with increasing the risk of stroke, there is sufficient evidence that hypertension, pre-existing cardiovascular disease, age and diabetes make a person more susceptible to stroke.

Hypertension (high blood pressure) is one of the most significant risk factors for both heart disease and stroke and thus represents a major health concern. It affects approximately 18 percent of the adult population and is found more frequently among minorities and older adults. (Table 21) Since hypertension is without distinctive physical or psychological symptoms, its victims are not alerted to seek medical care, and thus may suffer serious physical damage. Periodic screening programs and an effective system for referral, treatment and follow-up should be undertaken to identify and treat hypertensive persons, particularly for that 25 percent of the population which does not see a physician each year. The National Heart, Lung, and Blood Institute has developed a program that seeks to reduce by one-half every five years the number of people whose diastolic blood pressure is 105 or higher. A diastolic pressure of 80 is considered normal.

If the trends of 1968–1978 continue the expected age-adjusted mortality rate for heart disease in 1985 will be 173/100,000 and for stroke will be 33/100,000. The targets for heart disease and stroke represent a 10 percent reduction from each of these projected levels for 1985. They may be achieved through a broad array of prevention, health program, and detection strategies. The potential for improvements in survival rates for all types of cancer is underscored by substantial improvements in these rates since the early 1960s for patients with 7 of the 10 most common forms of cancer in the U.S., accounting for nearly 65 percent of all cancers.

Part II: Disease Prevention and Health Promotion

Goal II. 1. *Extention of Disease Prevention and Health Promotion* *.

HEALTH PROMOTION AND DISEASE PREVENTION SHOULD BE EXTENDED THROUGH BOTH INDIVIDUAL AND COMMUNITY ACTIONS WITH EMPHASIS ON HIGH RISK POPULATIONS, AND BE AN INTEGRAL COMPONENT OF CARE PROVIDED BY HEALTH CARE AND OTHER COMMUNITY INSTITUTIONS

The early detection of diseases, the creation of a safe environment, and the promotion of healthful ways of living can extend the duration and improve the quality of life and reduce the long-term costs of health care.

Health promotion and disease prevention depend upon both individual and community actions. Because lifestyle and daily practices are important factors in determining how well and how long we live, planned educational strategies for improving the personal choices people make regarding health-related behavior are an essential part of a health program. These require efforts aimed at increasing the awareness of risks, facilitating behavior change and creating a social climate condutive to healthful behaviors.

For people who smoke, abuse alcohol or other drugs, or have other unwise health behaviors, awareness of the personal health risks associated with these action is a first step. Specific programs should be available to help them make the desired behavior changes. Community actions to prevent illness, disability and diseases can support

and supplement individual actions. Home, workplace, school and community should be safer and more conducive to healthful living.

A broad range of personnel, including physicians, dentists, dental hygienists, nurses, pharmacists, and other health professionals, should be involved in educating the public. Knowledge about health promotion, however, does not automatically lead to a change in behavior. Health education can employ a variety of educational strategies to help an individual bridge the gap between information and practice, ultimately aimed at helping the individual become an active participant in his own health care, not merely a passive recipient of information.

For this reason, health promotion and preventive health services need to be integrated into existing health care and community programs in order to provide the full range of services necessary to enhance the qualtiy of life and prevent or delay illness.

In addition to those agencies with major health responsibilities, educational and social agencies, employers, and others, should be encouraged to include health promotion and preventive health services in their respective programs. Preventive programs, for example, might include screening for hypertension, occupational assistance programs for alcoholism and drug abuse problems or dental health education. Wherever they are located, prevention programs should be aimed at providing members of the public with knowledge and attitudes that encourage them to choose to improve their behaviors related to health, personal health status and the appropriate use of health services.

Altering the various public and private reimbursement systems would encourage expansion of existing programs of health promotion and preventive health service and the establishment of new programs in these areas. Current reimbursement patterns generally constitute a disincentive to health promotion and disease prevention.

It is important to monitor the cost effecitveness of these programs, because improvement in health status or health practices may not occur just because health education programs are offered.

Congressional interest in these efforts is indicated in Priorities 8, 10, and 13 of section 1502:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services * * *"

(13) "The adoption of policies which will * * * (B) insure more appropriate use of health care services * * *"

Title XVII of the Public Health Service Act, the Health Promotion and Health Information Program (P.L. 94–317) also is aimed at strengthening activities in this field.

GOAL II. 2. *Consumer Information*.

PEOPLE SHOULD BE BETTER INFORMED AS TO HOW, WHEN, AND WHERE TO GET HEALTH CARE OF AN APPROPRIATE KIND AND QUALITY AT A REASONABLE COST

Health care consumers must be instructed to know when and how to seek health care services. They should also know how to care for themselves and their families and when not to use the health care system. An increasing number of individuals are becoming actively involved in their own health care.

More informed and more cost-conscious consumers may help stimulate the greater competition among providers of health services which Congress cited as a priority under section 1502:

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve . . . to advance the purposes of quality assurance, cost effectiveness and access."

Congressional concern for this issue is also indicated in the following National Health Priority:

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 3. *Prenatal, Maternal and Perinatal Care*.

PROGRAMS SHOULD BE ESTABLISHED TO ASSURE THAT ALL PREGNANT WOMEN RECEIVE ADEQUATE PRENATAL, PUERPERAL AND POSTPARTUM CARE AND THAT NEWBORNS RECEIVE ADEQUATE PERINATAL CARE

All women receive prenatal care during the first three months of pregnancy and thereafter at regular intervals. However, nearly 23 percent of white women and 41 percent of black women who gave birth in 1977 received no prenatal care during the first trimester of pregnancy, the period in which approximately 80 percent of high risk pregnancies can be identified. The women who are least likely to receive adequate prenatal care are those who are poor, non-white and under 20. Infants of mothers who had late and infrequent prenatal care experience a mortality rate that is three times higher and have significantly higher morbidity rates than infants of mothers who started prenatal care during the first trimester of pregnancy.

Adequate prenatal care has been shown to contribute to the prevention of premature birth, and of fetal and neonatal health problems and post partum care programs should be available to all pregnant women. These should include active community outreach programs, public education, residential care for pregnant adolescents, screening and prompt referral as part of the regionalization of perinatal services and other services to enable pregnant adolescents to remain in school or at work. Special attention should be given to nutrition counseling, emotional needs, and health education regarding the use of alcohol and other substances. The provision of prenatal care services for women living in rural areas should receive particular emphasis.

Although most women experience uncomplicated childbirth, about 20% have some problems during labor. Because these problems require prompt intervention, preventive care during pregnancy should also focus on the birth process itself and include education about childbirth and the preparation of both parents. Attention should also be given to adequate puerperal care for the mother, which is care in the period of confinement immediately following labor.

Once a baby is born, prospects for good health can be enhanced by a number of preventive services. These include immunizations, regular growth and development assessments, and screening for metabolic disorders with referrals as necessary and desired. Although not major causes of death, problems created by the lack of proper infant care can have a significant impact on health.

Emphasis on the provision of adequate prenatal care is in line with the following National Health Priority:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

Goal II. 4. *Unintended Pregnancy*.

THE RATE AND ADVERSE CONSEQUENCES OF UNINTENDED PREGNANCY SHOULD BE REDUCED, PARTICULARLY AMONG TEENAGERS AND OTHER HIGH RISK GROUPS

Family planning is an important public health measure. It allows individuals to make their own decisions regarding reproduction and to implement those decisions. Unintended pregnancies, on the other hand, often impose psychological and social costs that can continue throughout the lifetime of both mother and child.

Thirty-five percent of infants born to married American women between 1973 and 1976 were unintended. Tweny-five percent of these pregnancies would have been postponed to a future time.

Women who are poor, have language barriers, are illegal immigrants, live in rural areas or on Indian reservations or are teenagers have disproportionately high incidences of unwanted pregnancy and childbearing. These same women frequently have problems of access to all health services, including family planning. The proportion of unwanted births is twice as high among poor families than among families which are not poor. A 1973 survey reported that one of every four births by black women had been unintended whereas only one in every ten births by white women had been unintended.

Teenagers are by far the population subgroup most in need of family planning services. When compared to the pregnancies of older women, teenage pregnancies are associated with markedly increased risks of maternal morbidity and mortality and a greater probability of divorce, unemployment, welfare dependency and interruptions in education. Teenagers also have more infants who are premature or low birth weight, who then have reduced chances of surviving infancy and high rates of neurological impairment.

Teenage pregnancies are more likely to be unintended. One-fourth of American teenage women have had at least one pregnancy by age nineteen. Every year about one million adolescents under the age of nineteen become pregnant, including perhaps 300,000 who are under fifteen. This represents an annual rate of ten percent of all teenage women. Twenty-five percent of these women will again become pregnant within one year. Two-thirds of this group still will be unmarried. Current fertility rates for women less than eighteen years of age are near the highest ever observed in this country and exceed rates in more than a dozen developed countries and several developing countries. At least three of every ten elect to terminate their pregnancies. Of the more than one million American women who have pregnancies terminated by abortion each year, some 300,000 occur in the teenage population.

The major underlying problem which urgently needs addressing, especially in the teenage group, is inadequate knowledge of, and access to, information on sexual behavior, family planning and the responsibilities of being a parent. In 1976, an estimated forty percent of unmarried teenage women aged fifteen to nineteen (two-thirds by age nineteen) had engaged in sexual intercourse. Twenty-five percent never used any form of contraception. Birth control methods currently prevent an estimated 750,000 unintended pregnancies among teenagers annually. If all sexually active young people who do not want to have children were to use some effective form of contraception regularly, it is estimated that premarital pregnancies would drop by more than 300,000 a year.

Reducing the rate and adverse consequences of unintended pregnancy is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 5. *Immunization*.*

AN IMMUNIZATION LEVEL OF AT LEAST 90 PERCENT SHOULD BE MAINTAINED FOR ALL CHILDREN UNDER 15 YEARS OF AGE, AND NEWBORNS IMMUNIZED AT THE EARLIEST APPROPRIATE TIME AGAINST POLIO, MEASLES, RUBELLA, DIPHTHERIA, MUMPS, PERTUSSIS AND TETANUS

Immunization against disease has provided one of the most dramatic measures for reducing death and disability. As a result, many major diseases are no longer leading causes of death.

However, recent epidemics of measles and pertussis and occasional outbreaks of diphtheria and polio, indicate that reduction in disease incidence is temporary, and immunization must be continually emphasized. In 1977, for example, more than a third of all United States children under the age of 15 were not adequately immunized. Between 1976 and 1977 disease incidence increased for measles (up 39 percent), rubella (up 63 percent), and whooping cough (up 115 percent). Declines in incidence then were observed in 1978. Measles was down 53 percent, rubella down 13 percent and whooping cough down 8 percent.

More recently, an intensive, nationwide campaign was carried out to immunize children against vaccine-preventable diseases, ending in October, 1979. With more than 90 percent of school children protected, reported cases of all the diseases were at an all time low in 1979. The task now is to insure that all newborn and preschool aged children are immunized at the earliest appropriate age. All health care providers should adopt a system to track the immunization status of children under their care and should work with local school officials to see that immunization requirements are enforced.

The poor, blacks, other minorities, and migrant workers, remain at higher risk for all preventable diseases because of lower immunization levels. Special emphasis and immunization programs should be designed for persons who are highly mobile or who are determined by immunization survey data to reside in areas of increased disease incidence and/or low immunization levels.

To attain and sustain adequate immunization levels, a coordinated approach by parents, health departments, hospitals, physicians, and school officials is needed. Moreover, immunization services and education programs should be integrated with other existing health care services and resources, such as prenatal and postpartum care programs, teenage pregnancy programs and other programs which deal specifically with new mothers and young children.

Immunization is in line with the Congressional interest in preventive activities as indicated in the following National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(3) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

Goal II. 6. *Environmental and Occupational Health*.*

ENVIRONMENTAL AND OCCUPATIONAL RELATED MORBIDITY AND MORTALITY SHOULD BE REDUCED THROUGH THE PROTECTION FROM AND REDUCTION OF ENVIRONMENTAL AND OCCUPATIONAL HAZARDS

Although the cause and effect relationship of environmental exposure is not always clearly established, environmental agents are generally associated with nonfatal acute and chronic disease, injury and disability. The effects of environmental influences on mortality, however, are significant. Therefore, environmental health plays a significant role in the prevention of illnesses among the U.S. population.

The President's Council on Environmental Quality recently stated: "The adverse effects from chemical contaminants in our environment have become a significant determinant of human health and life expectancy." According to a task force report of the National Conference of Preventive Medicine, an estimated 60 to 90 percent of all cancers are related to environmental factors. Currently, more than 2,300 specific chemicals are suspected carcinogens. For another 20 chemicals and compounds, there is convincing epidemiologic evidence of a carcinogenic effect in humans. In addition, more than 20 agents are known to be associated with birth defects in humans.

Especially today, occupational illness and injury also are major health problems. Occupational exposure to toxic chemicals and physical hazards such as noise, radiation, vibration and ambient cigarette smoke can produce lung disease, cancers, sensory loss, degenerative diseases in a number of vital organ systems, birth defects, stillbirths and spontaneous abortion, reduced fertility, sterility and genetic changes, as well as acute poisonings. These toxic effects may be acute or chronic. Toxic effects have been reported for nearly 34,000 chemicals which are thought to appear in the workplace. As already mentioned, more than 2,300 are potential carcinogens. The most recent estimates on occupational illness, found in the 1972 President's Report on Occupational Safety and Health, estimated that 100,000 Americans die from occupational illnesses each year and that nearly 400,000 new cases of occupational disease are recognized. Therefore, occupational health and safety is considered a priority program.

Recent accounts of leaking abandoned chemical dumpsites such as the Love Canal in New York and the Valley of the Drums in Kentucky, have focused attention on the vast quantities of hazardous wastes being improperly disposed. The Environmental Protection Agency estimates that there are 32,250 sites which contain wastes which could cause adverse effects on public health and the environment. EPA also estimates that there are more than 3,500 spills of hazardous materials every year. These conditions extend the exposures suffered in the workplace to the community at large through contamination of water supplies, air and foods.

Attention should also be focused on those environmental health problems where local activity can produce a significant change that will enhance the health status of the community. The publications *Healthy People* and Preventing Disease and Promoting Health: Objectives for the Nation, produced in 1979 by DHHS, lay the foundation for those changes. Areas of local level environmental health concern include the following program areas:

Water supplies, food sanitation, waste water disposal, accident prevention, institutional environmental health, hazardous substances and product safety, housing, land use planning, recreational areas and waters

Water supplies, food and dairy products, and hospitals are sources of infectious diseases. In a typical year more than 1,500 infectious disease outbreaks occur throughout the country, according to the

Center for Disease Control. Better education of operators and managers, inspection of facilities and investigation and surveillance are needed to minimize these preventable diseases.

In 1977, work accidents resulted in 13,000 deaths and 2.3 million disabling injuries. Eighty thousand were permanently disabling. About one of every ten workers in private industry experiences an occupational injury. Because many vehicles and implements used on the farm lack basic safety features, particular attention should be paid to preventing accidents associated with farm work.

Linkages need to be developed with other agencies to urge action on environmental matters of high priority for health. Besides local and State agencies, this includes the Environmental Protection Agency (EPA), the Labor Department's Occupational Safety and Health Administration (OSHA), Department of Housing and Urban Development (HUD), and within DHHS, the Food and Drug Administration (FDA), the National Institutes of Health (NIH) and the Center for Disease Control (CDC).

Congressional interest in environmental and occupational health is expressed in the following National Health Priority:

(6) "The promotion of activities for the preventive of disease including studies of environmental factors affecting health and the provision of preventive care health services."

Goal II. 7. *Accidents**.

ACCIDENTS IN THE HOME, DURING RECREATION, AT WORK AND ON THE HIGHWAY SHOULD BE PREVENTED. PARTICULAR EFFORTS SHOULD BE MADE TO REDUCE ACCIDENTS INVOLVING CHILDREN.

Accidents are the leading cause of death among Americans between the ages of one and 14 years and the fourth leading cause of death for all age groups combined. More than 100,000 persons die from accidents each year and more than 61 million are injured. The highest death rates from accidents are among the elderly.

Children are particularly susceptible to accidents. Provisional data indicate that in 1978 over 9,750 children between the ages of one and 14 were killed in accidents. This was nearly five times as many as the number who died of cancer, the second leading cause of death for this age group.

Accidents during recreational activities are responsible for many childhood injuries. These injuries may be long-lasting and expensive. Accidental childhood poisoning due to the ingestion of drugs, cleaning agents, pesticides, and lead products constitute the most common pediatric medical emergency, primarily among children under five years of age. Accidents associated with the use of alcohol or drugs is a major problem. Pharmacists and other health professionals can play a crucial role in educating the public on the dangers of accidental poisoning and serve as a referral source on poison control.

More than 100,000 Americans lost their lives from accidental injuries in 1977, nearly half of them from motor vehicle accidents, the rest from firearms, falls, burns, poisonings, and others. Many of these accidents are preventable and the toll is made more significant when viewed in terms of years of life lost. A life taken at an early age due to an accident may differ from a life taken by cancer by as many a 50–60 years.

Most accidents are attributable to correctable environmental and occupational hazards, to inappropriate product design, to product defects or to careless or uninformed consumer behavior.

Prevention requires changing certain behaviors as well as promoting safety measures which can reduce the risk factors associated with accidents.

Goal II. 8. *Fluoridation**.

COMMUNITY WATER SUPPLIES CONTAINING INSUFFICIENT NATURAL FLUORIDE SHOULD BE FLUORIDATED TO OPTIMUM LEVELS FOR THE PREVENTION OF DENTAL CARIES. IN AREAS WHERE COMMUNITY WATER FLUORIDATION IS NOT FEASIBLE, OTHER APPROPRIATE FLUORIDE MEASURES SHOULD BE IMPLEMENTED.

Tooth decay (dental caries) affects virtually every person in the United States and is the leading chronic disease in children. The caries susceptibility of teeth is significantly reduced by the optimum intake of fluoride from birth. For persons who do not obtain sufficient fluoride as it occurs naturally in their drinking water, fluoride measures are needed. The ingestion of fluoride from birth provides the greatest benefit and is accomplished most easily through the fluoridation of drinking water supplies. Community water fluoridation provides protection to the greatest number of people while requiring no conscious effort on their part, and it is the most effective and least expensive public health measure for preventing tooth decay.

Dental, medical, and statistical evidence and over 30 years of community experience show that the adjustment of the fluoride content of drinking water which is deficient in naturally-occurring fluoride to the optimum level for dental health is a safe and beneficial procedure that does not produce harmful effects. Among children who drink fluoridated water from birth, the rate of tooth decay can be reduced by as much as two-thirds, tooth loss can be minimized, and certain orthodontic problems prevented. The cost of providing dental care for children in fluoridated communities can be less than one-half the cost of children's dental care in fluoride-deficient communities. Reduction in the incidence of caries during childhood also can reduce the need for caries-related treatment and tooth loss in adulthood.

Most community water systems in the United States use water supplies that are fluoride-deficient in the natural state. The optimum fluoride concentration in this country ranges from 0.7 to 1.2 parts of fluoride per million parts of water (ppm) depending on a community's maximum average annual air temperature. For most communities the optimum is 1.0 ppm. Since 1945, more than 6,800 communities have initiated fluoridation. However, many thousands of communities which need to fluoridate have not yet done so.

Approximately 17 percent of the population, however, lives in areas that are not served by community water systems and many of these persons have fluoride-deficient independent home water supplies. School water fluoridation is appropriate for elementary and secondary schools that (1) are not served by community water systems, (2) are located in fluoride-deficient areas and (3) are attended by children with fluoride-deficient drinking water at home. Reductions of up to 40 percent in the prevalence of dental caries can be expected in children benefiting from school fluoridation. Because children drink school water only part of the time, the recommended fluoride concentration for school fluoridation is 4.5 times the optimum concentration for community fluoridation in the same area.

Once community and school fluoridation systems are implemented, they must be properly operated and monitored regularly in order to ensure that optimum fluoride levels for the most effective caries reduction are constantly maintained. State-administered fluoridation surveillance systems serve to assure that the results from monitoring each fluoridated water system, as collected over a period of time, are in compliance with the optimum fluoride concentration recommended for each system.

Self-administered fluoride measures also exist for use in community programs. Dietary fluoride supplements, usually taken in tablet form, and fluoride mouthrinses are easily administered in the school setting. However, these measures should not be implemented as a substitute for community or school water fluoridation because their benefits are not as great and they cost more, but they can be used in schools served by community water systems until such time as fluoridation can be implemented.

To obtain maximum results in preventing tooth decay in children, the fluoride measure most appropriate for each community should be complemented by effective school-based dental health education programs that instruct children and their parents in the importance of having sound teeth and motivate children to follow a proper personal oral hygiene regimen, to avoid highly-cariogenic foods and snacks particularly those containing refined sugars, and to have regular dental checkups. The prevention of dental caries through community water fluoridation and other measures is in line with the following National Health Priority (8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

Goal II. 9. *Nutrition**.

PEOPLE SHOULD BE INFORMED ABOUT WHAT CONSTITUTES GOOD NUTRITION AND SHOULD BE ENCOURAGED AND AIDED IN OBTAINING A PROPER DIET

Adequate diets are critical in promoting health, preventing disease, and facilitating recovery and rehabilitation from illness or injury. Poor dietary habits may be linked with health problems such as heart disease, obesity, tooth decay, and possibly some types of cancers. An adequate diet should be determined in accordance with the Dietary Guidelines for Americans developed by the

Department of Health and Human Services and the Department of Agriculture.

The two major nutritional problems in our society are undernutrition caused by inadequate diets and obesity resulting from overeating and improper eating habits. Poor nutrition impairs an individual's ability to learn, work and function in other ways.

Obesity is the most prevalent and serious form of malnutrition and it occurs in all segments of the population. Obesity is a progenitor of other serious health problems. If it occurs in conjunction with hypertension, hyperglycemia, or hypercholesterolemia, it significantly increases the risk of developing heart disease. Moreover, statistics indicate that 80 to 95 percent of those who lose weight eventually regain it. Other forms of malnutrition are less prevalent but may have serious consequences for health and survival. Poor nutrition among pregnant women can increase their chances of delivering a low birth weight infant and increase the possibility that the infant's physical and mental develpment will be retarded. The failure of older people to receive a daily complement of essential nutrients can lead to malnourishment and debilitation. Poor oral health or improperly fitting dentures can contribute to this problem.

Malnutrition exists in the U.S. for reasons that are complex and highly interrelated with other socio-economic problems. Access to an adequate diet of nutritious food is limited by income, knowledge of what nutrients are wholesome and essential, and access to nutrition counseling services.

Consumer awareness of the relation between obesity, food consumption, and the incidence of disease needs to be increased. So should the ability to select (and prepare) more healthful diets. In particular, healthy eating habits need to be established at home and in schools. Educational programs for expectant parents and consultive programs for overweight children and their parents should be available. Weight reduction and weight maintenance programs should include psychological and social supports.

Promoting sound nutritional behavior is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 10. *Smoking*.*

COMMUNITIES, WORKING THROUGH ALL AVAILABLE INSTITUTIONS AND MEDIA, SHOULD STRIVE TO DISCOURAGE THE INITIATION OF THE SMOKING HABIT AMONG YOUNG PEOPLE, AND TO BREAK THE HABIT AMONG THOSE WHO SMOKE.

Cigarette smoking is the largest single preventable cause of illness and premature death in the United States. Smokers have a 70 percent greater rate of death from all causes than do nonsmokers, and tobacco is associated with an estimated 320,000 deaths annually. Among those diseases for which cigarette smoking is a causal or major risk factor are coronary heart disease, chronic bronchitis and other respiratory diseases, cancers of lung, oral cavity, larynx, pharynx, pancreas, kidney, urinary bladder, and peptic ulcers.

Other data also point to the interaction of smoking and various agents in increasing the risk of serious illness. These include oral contraceptives, alcohol, and such occupationally prevalent agents as asbestos. Finally, cigarette smoking has been linked to increased infant mortality, spontaneous abortion, and other complications of pregnancy.

Survey data suggests that the smoking habits of teenage and early-youth are major determinants of lifelong cigarette consumption. Since 1965, there has been a doubling of the rate at which 12- to 18-year-old women smoke. In a 1979 survey, the National Institute of Education reported that for the first time teenage women outnumbered teenage men as smokers. Smoking rates for women aged 17 to 24 also have risen and now exceed those for men. This trend has serious implications since mortality rates from all causes are significantly higher among those who initiate smoking earlier in life. It suggests that the teenage "experimental" phase of cigarette smoking may be the critical point for successful health intervention.

Communities should work together with business, government and voluntary groups on informational campaigns stressing specific health consequences, the effects of "passive smoking" (being in the same room with a person who is smoking), and the immediate benefits of cessation. The most significant benefits are the decline in the risk of lung cancer and heart disease, and the achievement of overall mortality levels comparable to those of people who never smoked. More emphasis also could be placed on enforcing no-smoking rules in public places, such as restaurants, grocery stores, offices, schools, work places, public area, and mass transit.

Campaigns directed at teenage smoking should focus on combating peer pressures, stressing the immediate physical, cosmetic and aesthetic consequences, and making use of research findings that show "significant adults" such as health professionals, coaches, parents and peers are powerful influences on teenage smoking. This could be accomplished via the school system or youth organizations. In particular, specialized programs of women should be introduced via social and health organizations.

The goal is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of diseases, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Part III. Institutional and Personnel Resources and Systems of Care

A. Service Delivery.

Goal III.A.1. *Access to Care*.*

EVERY PERSON SHOULD HAVE ACCESS TO THE FULL RANGE OF HEALTH CARE SERVICES. EQUAL ACCESS TO NEEDED HEALTH CARE SERVICES FOR ALL POPULATION SUBGROUPS (INCLUDING RACIAL AND ETHNIC MINORITIES, THE ELDERLY, THE HANDICAPPED, AND LOW INCOME PERSONS) SHOULD BE FOSTERED THROUGH THE ELIMINATION OF FINANCIAL, PHYSICAL, GEOGRAPHIC, ORGANIZATIONAL AND OTHER BARRIERS UNRELATED TO THE NEED FOR CARE. PLANNING AND REVIEW DECISIONS MUST TAKE INTO ACCOUNT THE SPECIFIC HEALTH CARE NEEDS OF THESE GROUPS AND SHOULD GIVE A PRIORITY TO PROJECTS WHICH SEEK TO ADDRESS THESE NEEDS.

Access is the ability of a population or a segment of the population to obtain appropriate health services on the basis of need. The services available should include health promotion and protection, prevention and detection, diagnosis and treatment, habilitation and rehabilitation, and maintenance. The ability to obtain care, however, is often affected by economic and cultural factors, by transportation difficulties, language barriers, a lack of information, and exclusionary referral systems. Moreover, different population groups often confront such barriers as racial discrimination, geography, limitations on admissions, the actual availability of services and the emphasis placed on cost containment.

In directing efforts toward eliminating barriers to access, particular attention should be paid to discrimination against minorities, elderly, and handicapped persons as well as to children and persons living in rural areas. Attention should also be paid to population subgroups who because of cultural differences seek alternate kinds of care, such as traditional medicine congressional interest in assuring access is indicated in setting as a priority in session 1600 of P.L. 93-641:

"The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

A. *Discrimination.*

All health services must be provided on a non-discriminatory basis that assures access to quality health care for persons with limited or no ability to pay for services, for minorities and for the handicapped.

The problem of discrimination is compounded by inadequate housing, poor nutrition, high rates of unemployment and other economic and social factors, and contributes to different rates of illness, disability and death for minorities and the handicapped. Given these problems, access to health care is particularly important for disadvantaged populations.

Barriers to access because of race or national origin are not acceptable in the United States. Neglect and insensitivity have established these barriers to access. Proper concern for equal health care can remove them.

The denial of access resulting from historical patterns of discrimination based on race, national origin, and subtle factors

related to socioeconomic status are reflected in many ways, such as the construction of facilities away from public transportation or the relocation of hospital facilities to suburban areas with a corresponding decrease of services to inner city communities. By being alert to these patterns, Health Systems Agencies can act to counter them and thereby avoid their negative consequences.

B. *Geographic Barriers.*

Geographic proximity for minorities, elderly, and handicapped persons should be maintained in hospital site relocation.

Transportation services should exist to assure access to health care facilities, particularly for minorities, elderly and handicapped persons. They should be developed, as necessary, when medical services are relocated.

C. *Admissions Limitations.*

Equal access to appropriate health care shall be available regardless of the patient's method of payment. Preadmission deposits should not prohibit access to health care for minorities, elderly or handicapped persons.

Patient or provider referral systems shall not prohibit access to health care for minorities, elderly or handicapped persons.

Admission to hospitals shall be accessible to all in need of services. Utilization by minorities, elderly, children, and handicapped persons should be proportionate to their identified health needs.

Arrangements for staff privileges shall assure equal access to all community facilities for both physicians and patients while assuring qualified staff selection.

Arrangements shall be made to ensure that there is appropriate access from freestanding and community clinics into secondary and tertiary facilities. This is especially important in rural areas.

The number of minorities, elderly, children, handicapped persons and Medicare/Medicaid recipients served by health care facilities shall be proportionate to the identified health needs of such groups who reside in the facilities, service area.

D. Availability of Services.

Every facility certified as Medicare/Medicaid eligible should provide all services available within the facility to Medicare/Medicaid recipients

Bilingual services (interpretors, dual language notices, etc.) should be provided to assure accessibility of services in those facilities to persons of limited English-speaking ability.

Special assistance should be provided for handicapped individuals to assure availability of services.

Where public and other hospitals close or decrease their services, access to necessary services should be maintained by other facilities within the community. This is particularly important for health care services in rural areas.

E. Cost Containment.

Some efforts at controlling health care costs may pose special adverse consequences for low-income and minority persons. Cutbacks directed toward hospital outpatient clinics and emergency rooms, for example, may deprive them of their only means of obtaining primary care services.

Cost containment efforts should be directed toward services or facilities, which if curtailed or diminished, will not disrupt access to care for medically underserved populations including the poor, minorities, the handicapped, the elderly, or other disadvantaged groups.

GOAL III.A.2. *Primary Care*.*

a. *Supply.*

THE SUPPLY OF PRIMARY CARE PHYSICIANS IN A HEALTH SERVICE AREA SHOULD BE AT LEAST ONE PHYSICIAN PER 2,000 POPULATION. UNDER CENTAIN CIRCUMSTANCES SERVICES SHOULD BE ENHANCED THROUGH MORE EFFECTIVE UTILIZATION OF OTHER HEALTH PERSONNEL, INCLUDING PHYSICIANS' ASSISTANTS AND NURSE PRACTITIONERS

A ratio of at least one primary care physician to 2,000 persons is needed to provide a minimum level of primary care services. A primary care physician has been defined for this purpose to include general and family practitioners, internists, obstetricians-gynecologists, and pediatricians. Deliberate measures should be taken to bring resources up to this goal in medically underserved areas.

The goal of at least one primary care physician per 2,000 population is based upon the analyses of a joint Health Resources Administration—Health Services Administration Task Force reviewing primary health care needs in health manpower shortage areas. The Task Force concluded that a ratio of one primary care physician per 3,500 persons should be used in designating an area as a primary care health manpower shortage area. This ratio represents the lowest quartile of the United States in 1974 in terms of primary care physicians and now is used as a basis for justifying Federal intervention through a placement of National Health Service Corps personnel. Following intervention, efforts are directed toward improving the ratio to a level of one primary care physician per 2,000 population. When the ratio is better than one per 2,000, the physician/population ratio is considered to be adequate.

The ratic was based upon a range of views and practices with regard to the availability of health manpower. In 1974, for example, the median ratio for primary care physician to the population was approximately one to 2,500. On the other hand, large Health Maintenance Organizations reportedly averaged about one primary care physician per 1,500 enrollees and one primary care physician for every 1,200 enrollees who actually use the services. Studies of fee-for-service primary care practices in some rural areas indicated a ratio of one per 2,000 was adequate. Other studies indicated that a greater ratio may be needed when the age and productivity of the physician were considered.

The ration of one primary care physician per 2,000 people thus constitutes a minimum standard and does not necessarily indicate either productivity or the availability of primary care to all population groups on an equivalent basis. Cultural, racial, socioeconomic and geographic barriers may, in fact, leave part of the population without a primary care physician while other segments of the population enjoy a surplus.

Each HSA should be responsible for determining whether the needs of different population groups within its area are being met. Poor health indices could be one indicator of unmet needs. Particular attention should be given to the adequacy of coverage to meet the needs generated by seasonal population shifts with the influx of agricultural workers and tourists into rural areas.

The Graduate Medical Education National Advisory Committee (GMENAC) was established in 1976 to make recommendations to the Secretary on the present and future supply of, and requirements for, physicians; their specialty and geographic distribution; and methods to finance graduate medical education. Part of its work also includes an analysis of primary care physicians. The final report, due in 1980, may be helpful in further refining this goal.

Physicians' assistants and nurse practitioners enhance the range of primary care services offered and can help increase the overall availability of health care services when a shortage is projected, especially in rural areas. The number of graduates of nurse practitioner and physicians' assistant programs has been increasing in recent years, and the use of these graduates should be encouraged. Experience has demonstrated that nonphysicians health care provides have been accepted both by patients and by the physicians who work with them; that nonphysician providers can provide a cost-effective mechanism for expanding services in a number of settings; that the quality of their service is satisfactory; and that there are some services, such as patient education, which may be better carried out by nonphysicians.

Nurse practitioners and physicians' assistants should work within the limits of existing State medical practice laws. However, in some States, overly restrictive laws continue to inhibit the exercise of the full range of capabilities for which these types of personnel are trained. States should review their medical practice laws and make appropriate recommendations.

The concern of the Congress about primary care and the training and employment of nonphysician primary care personnel is expressed in their setting as National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(4) "The training and increased utilization of physicians' assistants, especially nurse clinicians."

Goal III.A.2. *Primary Care.**

b. *Balance Among Medical Specialties.*

TO THE EXTENT THAT SHORTAGES OR EXCESSES OF PRIMARY CARE PERSONNEL OR MEDICAL SPECIALTIES EXIST AND ARE DOCUMENTED, THESE IMBALANCES SHOULD BE CORRECTED

The problems of rising costs, restricted access, and proliferation of inappropriate services will continue if a balance is not struck between the medical service needs of a health service area and the specialty and geographic distributions of medical service providers. The trend in medicine until very recently has been towards the development of highly trained subspecialists and the subsequent lack of physicians in general practice.

Until the early 1970s, a shortage in the supply of medical manpower was considered to be the major manpower problem. More recently, the problems have shifted to those of specialty and geographic maldistribution. Minorities, the elderly and other underserved groups, such as people in rural areas, face significant problems because of the maldistribution of primary care physicians. Accordingly, Federal policy has shifted its emphasis from increasing the number of physicians to producing a different mix of medical practitioners and encouraging their locations in areas of relative shortages.

Increasing the availability of primary care personnel; decreasing residencies and third party payments in certain specialty areas; and increasing residencies and the availability of third party reimbursement to primary care practitioners are among the measures which should be considered to correct these imbalances.

The 1980 final report of GMENAC mentioned in the discussion of the preceding goal, should be valuable in providing further direction for achieving this goal.

Efforts to assure an appropriate balance among medical specialties are in line with the following National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III. A. 2. *Primary Care.**

c. *Integration of Mental Health.*

THE INTEGRATION OF MENTAL HEALTH SERVICES IN GENERAL HEALTH CARE DELIVERY PROGRAMS SHOULD BE INCREASED THROUGH IN-SERVICE MENTAL HEALTH TRAINING OF PRIMARY CARE PROVIDERS AND PLACEMENT OF MENTAL HEALTH PROFESSIONALS IN PRIMARY CARE PROGRAMS

Of the total number of people affected by mental disorders only about 20 percent were estimated to be seen in the specialty mental health sector. About 54 percent are seen in the health sector (but not in the specialty mental health sector); and 6 percent are seen in both. The remaining 20 percent are either seen in other human service sectors, or they are not seen at all. It is imperative, therefore, that the need and demand for human resources to treat mental disorders be viewed in the context of the entire health/mental care system.

Mental health training of general health care personnel and the use of mental health personnel in primary health care settings both should be increased to open up opportunities for effective mental health care and treatment. In order to improve mental health, prevent mental illness and insure the provision of appropriate, effective, high-quality treatment and rehabilitative services in the least restrictive setting for persons of all ages and cultural backgrounds, it is important to develop a partnership in the delivery of mental health, health services and other support services. Particular attention should be paid to the development of community-based mental health services in rural areas where the population base is limited and costs may be greater.

Mental illness contributes substantially to disability among adults in this country. Growth of community mental health services in recent decades has made resources for mental health promotion more available in local communities. But close relationships between mental health and other health and support services need to be fostered. The diverse problems of those with mental illness require a broad range of mental health services.

Prevention efforts can be improved by improving the ability of health, social service and other support service personnel to recognize and prevent mental illness. This first contact recognition can take place within the health service system. Chronically mentally ill children and adults need mental health services and support systems to assist them in living productive lives outside traditional institutional settings.

The quality of mental health care depends ultimately on the knowledge, skills and sensitivity of those providing it. Although there has been a marked increase in the number of professional and paraprofessional mental health practitioners, there still is a shortage of trained personnel especially in rural and poor urban areas and for dealing with children, adolesents, the elderly, and minority groups. Efforts should be directed towards assuring that personnel are trained to be culturally sensitive, and that personnel are employed whose own cultural and linguistic backgrounds are appropriate in light of the person to whom services are provided. Curricula and training materials should be developed and information disseminated to all health manpower dealing with mental health. These should be relevant to the group being trained and to the priority area in the community. Substantial increases in the training and retraining of such personnel are necessary for quality mental health care to be delivered throughout the health care system.

The integration of mental health services in general health care delivery programs is in line with the following National Health Priority:

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

Goal III. A.3. *Mental Health**.

AN INCREASING PROPORTION OF MENTALLY ILL PATIENTS SHOULD BE RESTORED TO PRODUCTIVE LIVING BY:

a. DEVELOPING COMMUNITY-BASED SERVICES FOR UNSERVED, UNDERSERVED OR INAPPROPRIATELY SERVED POPULATIONS, ESPECIALLY CHILDREN AND YOUTH, THE AGED, THE CHRONICALLY MENTALLY ILL, RACIAL OR ETHNIC MINORITIES, POOR PERSONS, AND PERSONS IN RURAL AREAS,

b. MINIMIZING UNNECESSARY OR INAPPROPRIATE INSTITUTIONALIZATION AND ENSURING THAT PERSONS REQUIRING LONG-TERM RESIDENTIAL CARE DUE TO MENTAL ILLNESS OR DISABILITY RECEIVE SUCH CARE IN THE LEAST RESTRICTIVE SETTING WHICH ASSURE HIGH QUALITY CARE AND SERVICES APPROPRIATE TO THE PATIENT'S NEEDS, AND

c. PROVIDING ECONOMICAL AND HIGH QUALITY HEALTH FACILITIES FOR CHRONIC MENTAL PATIENTS WHO REQUIRE PROLONGED PERIODS OF CARE.

Larger numbers of mentally disabled people are now living outside of mental hospitals. Reliance on hospitals for long-term care of such persons is expected to continue to diminish. These costs of hospitalization are too high and the human and civil rights issues too complex to maintain traditional patterns of institutional care.

For severely emotionally disabled persons to benefit from being released from mental institutions, they must have long-term access to rehabilitative and supportive services in the community, including assistance with living arrangements, jobs, and other problems of everyday life.

In spite of successes with deinstitutionalization programs, there will continue to be a residual population needing protection and residential care for prolonged periods of time. The size of this population is still undetermined, but it will number in the thousands and be housed in State hospitals and nursing homes. The HSA must address the needs of these people and assure that they continue to receive appropriate care and rehabilitative services at a reasonable cost in the least restrictive setting.

In development of standards for long-term care of the mentally ill, it is necessary to make the following assumption: all mentally ill patients requiring long-term care do not need the same level of care nor should all care be provided in the same type of facility.

The goals of providing appropriate care and treatment, rehabilitative and supportive services, and education and re-training should be provided in the least retrictive setting and at a reasonable cost. Selection of the appropriate facility should be based upon an assessment of the individual's short and long-term goals, the type of treatment and other resources required, and the services needed to assist patients in attaining their maximum potential for independent living, whether within or outside the facility setting. The physical well-being and the personal and emotional welfare of the individual should be the prime concern of those who make decisions about the adequacy,

appropriateness and timeliness of the care and treatment being provided.

Estimates are that the chronic care population currently exceeds 1.5 million persons. At present though, thousands of mentally disabled persons remain in State hospitals or continue to enter and reenter them, primarily because few community programs are available. Many thousands more have been and continue to be released with inadequate provision for their care in the community. In other instances, people may return to State hospitals because they are inappropriately treated and/or released to the community too soon.

A variety of community-based living arrangements linked with mental health, health and other human services must be developed on a much broader scale than is presently available. Services must also be available for individuals who require inpatient care.

In line with efforts to assure access to appropriate care for the mentally ill, HSAs should seek to (1) reduce the admission rate to State and county mental hospitals to less than 180/100,000; (2) reduce the average length of stay in State and county mental hospitals to less then 25 days per episode; and (3) reduce the number of resident patients in State and county mental hospitals to less than 70/100,000.

The National Institute of Mental Health developed these targets by using National averages for 1977, the last year for which National data was available. In working toward these targets, HSAs should be aware of any extenuating circumstances which exist in their area and also take note of the fact that most State mental hospitals serve areas that are larger than a single HSA.

The goals are in line with the following National health Priorities:

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."

(16) "The promotion of those health services are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

GOAL III. A. 4. *Child Mental Health*.*

SERVICES SHOULD BE AVAILABLE TO IMPROVE THE LEVEL OF SOCIAL AND COGNITIVE FUNCTIONING FOR CHILDREN IDENTIFIED AS "MOST IN NEED" OF MENTAL HEALTH SERVICES.

The President's Commission on Mental Health (PCMH) called for an increased commitment of resources to the underserved, a group which includes children, adolescents, and the chronically mentally ill. Within this group, children who have a combination of mental health, developmental and physical problems are among the most neglected of all in the services system, and therefore, qualify as those children "most in need" of mental health services.

Between 1.5 and 2.0 million children suffer from psychotic or affective disorders, or have severe problems adapting to the social environment, or suffer from other conditions that impede growth and development (such as chronic handicapping conditions, poor nutrition and disruptive family structures.) These children also experience serious access problems to services. They comprise 2 to 3 percent of the total child population. While this represents a comparatively small group in terms of the overall number of children and youth who experience all forms of psychiatric disorders, this group requires the most services and resources over time, has serious effects on family members and the community, and experience chronic conditions that can become the precursors to more serious adult mental health disorders.

Providing services to this particular group requires that may different resources be organized and coordinated. Yet at the present time, such basic items as clear entry points into service systems on behalf of children are difficult to identify. Often one is confronted with such a maze of programs and services, which themselves are fragmented and discontinuous, that they constitute the epitome of a "non-system." Coordinated working relationships between service components at any level—community, State, Federal—are as unusual as the cooperative uses of available funds and professional resources. Lack of well-prepared, competent personnel appropriate to a service need is another general barrier to the delivery of services. Sometimes services are simply not available.

The particular target population for this proposal will include children aged 5 to 17 who can not be identified, and whose mental health status can be tracked through the requirements of P.L. 94–142 (Education for all Handicapped Children). Under this legislation, an individual Education Plan will be developed for each handicapped child, including the seriously emotionally disturbed. This will provide baseline data for the "most in need" target group.

Experience with these interventions allows us to anticipate that social and cognitive functions will improve for these children identified as "most in need".

This goal is in line with the following National Priorities:

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of quality of care provided provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurances of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferrable alternative to inpatient mental health services."

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

Goal III. A. 5. *Alcoholism and Drug Abuse **

ALCOHOLISM AND DRUG ABUSE SERVICES SHOULD BE ORGANIZED IN WAYS THAT FURTHER THE DEVELOPMENT OF COMPREHENSIVE COMMUNITY-BASED PREVENTION AND TREATMENT SERVICES WHICH ARE INTEGRATED INTO THE MAINSTREAM OF HEALTH CARE

The availability of adequate alcoholism treatment resources should be increased, and accessibility to those resources facilitated as a routine part of health care. Efforts are currently under way to expand coverage of alcoholism treatment by third party payors. Insurance generally covers approximately 65 percent of the costs of diseases other than alcoholism. Similar coverage for alcoholism treatment should be provided.

Health care professionals in all treatment settings should be responsible for assuring that alcoholism is treated as a routine part of health care and that there is no discrimination against the alcoholic patient. This requires increased emphasis on integrating alcohol education into the curriculum and training programs for health providers and allied professionals. The trend toward outpatient treatment should be maintained and encouraged.

There is also a need for increased awareness among the health care community of the relation between alcohol consumption and a variety of medical disorders (including cardiovascular problems, malnutrition, cirrhosis, pancreatitis, gastritis, certain cancers, Wernicke-Korsakoff's Syndrome, depression, and fetal defects) in addition to the disease of alcoholism itself. Health care providers should consider the drinking patterns of their patients when diagnosing their presenting complaints and developing treatment plans, so as to ensure that the cause and any complicating factors as well as the symptom are being dealt with. In addition, particular care should be paid when prescribing drugs for individuals who also drink alcoholic beverages. Alcohol is known to interact in an adverse and sometimes life-threatening manner with many of the most frequently prescribed drugs. In addition, the use of alcohol can alter the expected therapeutic and/or adverse medical effects of many commonly prescribed medications.

Of the more than 92 million people in the work force, more than 6 percent are estimated to have problems with alcohol. Occupational programs have proven extremely effective in dealing with this problem.

In occupational programs funded by the National Institute on Alcohol Abuse and Alcoholism, results 180 days after treatment have shown that approximately 70 percent of patients are improved. Measures include 51 percent decrease in "impairment;" an 11 percent decrease in absenteeism; a 73 percent decrease in the number of days when alcohol was consumed; and 16 percent increase in days worked.

In terms of cost savings, the U.S. Postal Service reports saving $1,869 per person per year in sick leave and leave without pay since beginning its occupational program. The Federal Civil Service estimates that an expenditure of $5 per Federal employee or approximately $15 million a year, will result in savings ranging from $135 to $280 million.

There is growing evidence of alcohol associated problems among women and youth. Special attention should be developed to the treatment needs of these population groups.

In the area of drug abuse, treatment and rehabilitation services should be strengthened by also assuring that drug abuse services are routinely available and that an organized program of comprehensive drug abuse services exist for all residents of the health service area. Because of the failure of our traditional systems to provide such care, the drug abuse treatment system has evolved almost entirely during the past decade.

Goal III. A. 6. *Dental Services* *

DENTAL SERVICES SHOULD BE AVAILABLE TO ALL PERSONS WHO WOULD SEEK DENTAL CARE IF IT WERE REASONABLY ACCESSIBLE; AN INCREASING PROPORTION OF PERSONS SHOULD REGULARLY SEEK AND OBTAIN ADEQUATE DENTAL SERVICES

To maintain optimal oral health, every person from about age three throughout life needs to have regular dental checkups and to receive prompt treatment of oral diseases and conditions as they occur. Yet, each year only one half of the population visits a dentist and some of these persons seek less than adequate care. Almost 10 percent of the population has never been to a dentist.

Accordingly, the unmet dental treatment needs of the population are extensive. In the early 1970's, 64 percent of persons 1–74 years of age had unmet dental treatment needs. Among age groups, the percentage of persons needing dental treatment ranged from 73 percent among persons 18–44 years of age to 17 percent among children under age six. About 69 percent of persons whose family incomes were below $10,000 had unmet treatment needs, as compared to 62 percent of persons with family incomes of $10,000–$14,999 and 54 percent among persons with higher family incomes.

There are a variety of reasons why persons do not routinely seek dental care. Many persons cannot affort it. Unlike medical care which is largely financed through private and public third-party payment mechanisms, dental care is a direct out-of-pocket expense for most of the population. Many persons do not comprehend the importance of oral health and the need for regular dental care. Even among high-income persons and persons eligible for dental care under public or private third-party plans, many are not motivated to seek dental care.

In addition, many persons encounter other barriers which prevent or discourage them from seeking dental care. Rural and inner-city residents often find it too time-consuming, expensive or inconvenient to travel to the nearest dental facility. Some parents cannot afford to take time off work to take their children to a dentist or they do not appreciate the importance of doing so. Handicapped persons frequently encounter architectural barriers to entering a dental facility or within the dentist's operatory. Elderly and handicapped persons often have difficulty in locating a dentist who is trained to provide the special patient-management and clinical services they require. Dental services are not available to many persons who reside in institutions or to most who are homebound.

Comprehensive dental care services should be equally available to all persons who would seek care if a dentist was reasonably accessible. All of the barriers to the receipt of dental care can be addressed in the health planning process. Areas with adequate but maldistributed dental manpower resources need to develop community measures to make the existing dental services resources more accessible to and utilized by underserved population groups. For example, school-based programs can be developed to motivate parents to seek dental care for their children and to arrange transportation for children to visit dental offices or clinics. Dentists can be encouraged to work part time in community health facilities that are nearer to underserved population groups and to accept patients covered by third-party plans. In areas where dental services resources are not sufficient to serve the potential demand of the general population, measures are needed to encourage new dentists to locate in the area and dentitsts already there to increase their service load through, for example, more effective utilization of auxiliary personnel. Other measures appropriate to all areas include development of dental health education programs to inform the general public of the importance of dental health and to motivate more persons to seek dental care on a regular basis, and measures to coordinate and facilitate dental services for all persons who are eligible under third-party programs.

Dental treatment services are provided by a dentist or by a dental auxiliary under the supervision of a dentist. Recent data indicate there are an estimated 36,770 dental hygienists, 144,700 dental assistants, and 45,000 dental lab technicians working with the approximately 123,500 dentists. For most areas designated as having a personnel shortage sufficient to justify the placement of National Health Service Corps dentists, a ratio of one dentist to 5,000 persons has been adopted. Nationally, there is one dentist for every 1,912 persons. Most dental services are provided in private dental practices; however, services can be made more accessible to underserved persons by establishing dental programs in hospital out-patient clincis, community health centers, National Health Service Corps sites and other community-based settings.

In determining the need to improve the availability and accessibility of an area's dental services resources, the adequacy of existing dental manpower resources needs to be assessed in light of the requirements of the population and other local considerations. Assessment of an area's dentist resources includes consideration of factors such as the amount of time the dentists devote to their practices, the geographic distribution of the dentists within the area, the dental treatment needs of the population, the potential demand for dental care, and the availability and utilization of dental auxiliary personnel.

Dental treatment needs vary from area to area depending upon factors such as the prevalence of oral diseases (primarily dental caries and periodontal disease), the age and ethnic composition of the population, and the adequancy of care received by the population in the past. The need for dental care in a population can be decreased over time through implementation of appropriate preventive measures and provision of comprehensive care to more persons.

Current potential demand for dental care is greater than utilization because it also reflects the treatment needs of persons who would seek and obtain care if dental services were reasonably accessible. Potential demand can be increased by motivating persons to seek regular dental care, improving the distribution of dentists within an area, and eliminating other barriers to access.

The effective utilization of dental auxiliaries is essential to increasing dentists' productivity and making limited dentist resources available to more people. The appropriate mix of dental auxiliaries in a private practice or a dental clinic creates a dental care team that can increase the quantity and comprehensiveness of services a dentist can provide and has the potential for maintaining or lowering the cost of care. Improving access to dental services is in line with the following National Health Priority:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

B. *Systems of Care*

Goal III.B.1. *Regionalization* *.

PROVIDERS OF HEALTH SERVICES SHOULD BE ORGANIZED INTO REGIONALIZED NETWORKS WHICH ASSURE THAT VARIOUS TYPES AND LEVELS OF SERVICES ARE LINKED TOGETHER TO FORM COMPREHENSIVE AND EFFICIENT SYSTEMS OF CARE. THESE NETWORKS SHOULD WORK TO IMPROVE ACCESS TO HEALTH SERVICES, ELIMINATE UNNECESSARY DUPLICATION OF SERVICES, AND IMPROVE QUALITY.

The health care system is a complex arrangement of medical and human services subsystems, personnel, institutions, and organizational arrangements. It includes a great number and variety of individuals and institutions providing primary, secondary, and tertiary care.

"Regionalization" of health services refers to a process which brings providers and consumers together within a defined geographic area by linking functionally-related facilities and services together in a formal, structured and coordinated manner in terms of the complexity of care required. Coordinating all the obstetrical or pediatric care within a given area would be an example of regionalization.

There is a growing consensus that regionalization represents a major step toward improving access, efficiency and quality of care. Regionalization can increase access by pooling resources. Communications links among providers can improve access by making it possible for providers to have more services and information available for individual patients and to better coordinate patient care. Regionalization also provides a greater asset base from which to develop new services and thus can reduce provider risk. Regionalized systems can improve the

quality of care by eliminating low volume services where appropriate or assuring that the individuals who provide a limited amount of special services are qualified to perform this particular work. Improved access to basic levels of care also can be achieved in rural areas through regionalized networks.

When fully developed, a regionalized system of health care should establish minimum standards of care; emphasize decentralized delivery of primary care services; and limit unnecessary inpatient care and the inappropriate duplication of services within an immediate area, thereby releasing resources for other needed health-related uses.

The organizational relationships and the conditions and responsibilities involved in a regionalized network should encompass the services of both public and private institutions.

Regionalization could have the inadvertent effect of decreasing access to care for medically underserved populations. It is important that regionalized systems be carefully planned to increase access to basic levels of care while concentrating complex services in the most appropriate and accessible institutions.

In developing regionalized networks, mechanisms should be developed that assess the health needs of the population within a given area and to organize an appropriate response in terms of personnel, facilities and equipment. Local and State planning agencies should work with local health care institutions to update and develop, in more detail, demographic and epidemiologic information about the population to be served, their health care needs, and the available resources.

Public discussion of health care priorities should be undertaken to gain a clear idea of regional health care needs and to pinpoint major deficiencies in the delivery system. Planning and health care institutions should explore new ways for public and private groups to cooperate in planning and developing regionalized systems and in establishing quality control and accountability systems.

Strong Congressional interest in developing organized systems of care is indicated in the following National Health Priorities:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric emergency medical, intensive and coronary care and radiation therapy services.)"

(7) "The development by health services institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.2. *Multi-Institutional Systems and Shared Services*.*

EFFICIENCY AND PRODUCTIVITY OF HEALTH CARE INSTITUTIONS SHOULD BE FURTHERED THROUGH THE DEVELOPMENT OF MULTI-INSTITUTIONAL ARRANGEMENTS FOR THE SHARING OF CLINICAL, ADMINISTRATIVE AND SUPPORT SERVICES.

The continuing escalation in health care costs, and the widespread recognition that unnecessary duplication of facilities and services contributes to this escalation, has led many institutions to take an increased interest in shared services and other cooperative efforts. "Sharing" may include the buying and selling of services; agreements that particular institutions will specialize in particular services; or the joint production of services among health care organizations.

The hospital literature of recent years has reflected a high level of interest in, and experience with, the sharing of both clinical and support services. Support and administrative services, such as laundry and data processing, have been shared by American hospitals for several decades. During the 1970s, sharing has occurred in such clincial areas as emergency medicine, obstetrics, pediatrics, respiratory care, and cardiac intensive care.

Sharing, particularly if implemented through an arrangement involving centralized management of multiple institutions, may offer a number of benefits. These include cost savings through economies of scale as well as improvements in access and/or the quality of services. Multi-institutional systems, which should facilitate shared services, may also provide benefits such as the more efficient use of capital; the ability to afford a range of specialized managers and other professionals whose cost would preclude their frequent use by small hospitals acting alone; the financial ability to sustain hospitals that are needed for reasons of access, but whose income is insufficient to maintain a completely independent institution; more comprehensive, efficient data systems and computer support than many institutions could obtain by themselves; and improved capability to monitor the quality of medical and other key personnel.

Even though these arrangements may or may not involve organizational or staffing changes, any of them, when broadly defined, may be considered a "multi-institutional system." In other words, multi-institutional arrangements can range from a purely informal approach in which a group of hospital administrators meet periodically to discuss issues of mutual interest, to a full merger in which at least one institution changes its legal status.

The following are among the types of sharing arrangements which HSAs should consider:

Association—A group with voluntary membership which meets to discuss mutual concerns, and where the main purpose is broad representation. The metropolitan hospital council is an example.

Consortium—An entity created by a group of hosptials to coordinate institutional planning. An early example was the Capital Area Health Consortium in Hartford, Connecticut.

Affiliation—An arrangement in which two or more institutions agree to share parts of a program, such as student rotations and systems for patient referral.

Multiple Unit System or Multiple Hospital Management—An arrangement in which two or more legally separate hospitals are managed by a single corporate entity.

Contract Services—Arrangements in which an outside organization provides, under contract, a support or administrative service such as laundry, food or plant operations.

Contract Management—An arrangement in which the owner or board of trustees of a health institution contracts with an outside organization to manage the institution on a day-to-day basis, although the manged institution retains its legal responsibility and ownership.

Merger—The legal integration of two or more formerly separate organizations.

Strong Congressional interest in the development of multi-institutional arrangements and the sharing of services in this manner is indicated in the following four National Health Priorities:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care and radiation therapy services."

(3) "The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."

(5) "The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions."

(7) "The development of health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographcially integrated basis."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

Goal III.B.3. *Emergency Medical System*.*

NETWORKS OF EMERGENCY MEDICAL SERVICES SYSTEMS SHOULD BE DEVELOPED AND IMPROVED IN ORDER TO EFFECTIVELY COORDINATE THE DELIVERY OF EMERGENCY MEDICAL CARE TO ALL WHO REQUIRE IT

Until a few years ago, those who were critically ill or injured often were beyond emergency medical help. Today many of these lives can be saved if both initial and rehabilitative care are given in time and the patient is moved through an organized system and provided with essential medical care.

The passage of the Emergency Medical Services Systems (EMSS) Act of 1973 (P.L. 93-154), as amended by Congress in 1976 (P.L. 94-573) and again in 1979 (P.L. 96-142), has provided the mechanism and funds for communities to develop regional emergency medical services systems across the country.

The development of an Emergency Medical Services System (EMSS) usually starts with an initial upgrading of existing resources and

then progresses through periods of increasing sophistication. The goal of the system is to meet the needs of all patients requiring urgent care in the system's service area, but particularly to meet the needs of the most critical emergencies. The function of the regional EMS operational and organizing unit is to intergrate EMS services within an entire medical-geographical area in order to provide the best possible emergency care to the people living in that region.

Considerable improvements are now being made in the delivery of emergency medical care through the application of Federal and National consensus standards to EMS systems. Regional EMS programs have begun to categorize hospitals with respect to their capabilities in handling general emergency patients, and with respect to the facilities, equipment, and staff available to meet the needs of the most critical patients in such areas as trauma, spinal cord injury, burn, poisoning, acute cardiac failure, high risk infants, and behavioral emergencies.

This Goal is in line with the following National Health Priority:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services)."

Goal III.B.4. *Options for Care*.*

EVERY RESIDENT WITHIN THE HEALTH SERVICE AREA SHOULD HAVE AVAILABLE THE WIDEST POSSIBLE RANGE OF OPTIONS FOR HEALTH CARE SERVICES WITH RESPECT TO BOTH THE ORGANIZATIONAL MODEL FOR DELIVERY AND FINANCING MECHANISMS

a. THE OPTION OF JOINING A FEDERALLY-QUALIFIED OR SIMILARY CONSTITUTED HEALTH MAINTENANCE ORGANIZATION, SHOULD BE AVAILABLE TO EVERY RESIDENT.

b. THE NUMBER OF GROUP PRACTICE ARRANGEMENTS FOR THE DELIVERY OF MEDICAL CARE SHOULD BE SUBSTANTIALLY INCREASED.

Residents of any given community should have the option of choosing the type of health care system most sutiable for their individual needs. To make such choices possible, federally-qualified or similary constituted HMOs should be available within each health service area.

The opportunity for consumer choice should cause competing delivery systems to function in a manner that will help achieve goals of the Health Planning Act which are intended to improve the health status of all Americans. HSAs should actively encourage the development of HMOs in a cost-effective manner within their service areas in order to assure the existence of alternatives to the traditional free-for-service delivery system.

HMOs have received extensive public support within the past decade. As of June 1979, 8,226,053 Americans were enrolled in prepaid health plans, with 5,646,554 of them enrolled in federally "qualified" HMOs. These are HMOs which have met all the requirements of Title XIII of the Public Health Service Act. Title XIII of the Public Health Service Act recognizes basically three models of HMOs, the staff, medical group or individual practice association (IPA). Both the staff and medical group or models deliver services at one or more locations through contract with a group of physicians or through its own physicians, who are employees of the HMO. The IPA delivers services through physicians who usually practice in their own offices and see HMO members there.

HMOs are both a financing mechanism and a delivery system. For fixed periodic fee, they provide their enrolled members with the health care services they need, without regard to the cost of the service required. As a delivery system, HMOs assume the responsibility for arranging or directly providing care to a voluntarily enrolled membership.

A variety of incentives exist within the structure to control costs and assure the most appropriate use of health care services. Because the HMO directs and coordinates the health care services received by the enrolled membeship, the HMO is able to determine the most apropriate location of service and the most suitable level of treatment. Unnecessary inpatient care is avoided through the HMO's ability to provide care on an ambulatory basis, usually in its own facilities. Mid-level Practitioners may be employed to assure that needed care is rendered by personnel trained at a level indicated by the patient's particular condition.

HMOs have demonstrated an ability to effect desirable changes in the delivery of health care services as well. They have achieved lower hospitalization and surgery rates for their patients, as compared to patients covered by other health insurance plans. Because services are prepaid, patients are more likely to seek care early in the cycle of illness, when curative measures may be most effective. It is important that all consumer including medically underserved populations have the opportunities to benefit from these comprehensive prepaid services. These programs emphasize preventive health maintenance as well as therapeutic and curative measures. In doing so, they serve to reduce the overall cost of care.

Particular attention should be given to the development of HMOs in rural areas. At a minimum, the feasibility of establishing these alternative systems of health care in rural areas should be explored. So too should the feasibility of developing multi-specialty and multi-disciplinary group practices. At the very least, there is a need for research in developing HMOs and other group practice arrangements for rural areas.

Congressional interest in fostering competition and the development of HMOs, medical group practices organized systems of care is expressed in the following National Health Priorities:

(3) "The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve . . . to advance the purposes of quality assurance, cost effectiveness, and access."

Goal III. B. 5. *Quality of Health Services*.*

THE QUALITY OF HEALTH SERVICES SHOULD BE IMPROVED BY:

(a) REDUCING INAPPROPRIATE VARIATIONS IN HOSPITAL UTILIZATION;

(b) REDUCING INAPPROPRIATE VARIATIONS IN THE INCIDENCE OF SURGICAL PROCEDURES;

(c) REDUCING INAPPROPRIATE AND MEDICALLY UNNECESSARY UTILIZATION OF ANCILLARY SERVICES:

(d) IDENTIFYING AND ELIMINATING SUBSTANDARD CARE; AND

(e) HEALTH PLANNING AND REVIEW DECISIONS TAKING INTO ACCOUNT THE RESULTS OF QUALITY ASSESSMENT AND UTILIZATION REVIEWS

Health care professionals, public officials and hospitals and other institutional providers have long been interested in monitoring and enhancing the quality of health services. Traditionally, the most common quality control approaches have involved setting standards for health provider education and licensure as well as for facility accreditation, licensure and certification. Utilization reviews, medical audits, tissue specimen reports and other means of assessing quality also have been prominent within the medical care system. In addition, the assurance of ongoing provider competence through continuing education and testing arrangements has received growing attention.

Increasing attention is being devoted to variations in hospital utilization as a common measure of quality of care, although the presence of utilization variations does not necessarily indicate inappropriate utilization.

Another indicator of quality is the incidence of surgical procedures. Surgery of all kinds increased 23 percent between 1970 and 1975. In 1975, 14.2 million or 41.7 percent of all patients discharged from short-stay hospitals underwent surger. Variations in surgical rates have been documented for different parts of the country and for different population groups. These variations have been found to relate closely to the number of available surgeons in the area rather than the apparent need for surgery. While more knowledge is necessary regarding the extent of the problem and its cost implications, it is generally recognized that substantial unnecessary surgery is occurring. Given the apparent extent of the problem of needless surgery, second opinions should be excouraged for all elective surgery, that is, for all surgery which does not involve an emergency or a threat to life and which is subject to the choice or decision of the patient and physician.

There is increasing evidence that ancillary services delivery is a major area of both over-utilization and questionable quality. Recent studies indicate that some services which are provided routinely at admission may be inappropriate and indicate that many ancillaries provided during patient stays are untimely and of questionable value. Areas which do not yet have available data on

ancillaries should strive to develop data in these areas.

Quality of care is directly affected by the quality of the individual providing the care. Continuing education is an important measure in addressing this concern. Although the number of providers and practitioners who deliver sub-standard care is relatively small, the importance of eliminating such care in terms of impact on health and well being of the recipients of such care is substantial.

A major Federal program aimed at promoting the quality of health care is Professional Standards Review Organization (PSROs) developed following the Social Security Amendments of 1972. The law calls for close coordination between planning agencies and PSROs in order to link quality assurance and resource allocation. The importance of improving the quality of health care is recognized in priority 6 of section 1502 which urges:

(6) "The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organization under Part B of Title XI of the Social Security Act."

Guided by this priority, planning agencies and PSROs are to develop Letters of Agreement to specify possible areas and structures for cooperation and for the exchange of vital information. Moreover, section 1532(c)(14) of the 1979 Health Planning Act requires that planning and review decisions take into account the results of quality assessment and utilization review activities. Thus, the development of plans for meeting the area-wide needs of residents, as well as decisions under Certificate of Need and other mandated reviews, should reflect any findings of over-utilization and/or poor quality of care. Further efforts should also be undertaken to improve and/or develop improved quality assessment tools that are applicable to area-wide health planning decisions.

In matters relating to quality of care issues, planning agencies should base their decisions on the findings and results of organizations and groups judged to have expertise in this area. This shall include, in addition to PSROs, professional standards as established by the medical community, and standards developed by the Joint Commission on Accreditation of Hospitals (JCAH).

Goal III.B.6. *Management Procedures*.

EFFICIENCY AND PRODUCTIVITY OF HEALTH CARE INSTITUTIONS SHOULD BE FURTHERED THROUGH THE ADOPTION OF UNIFORM COST REPORTING, EQUITABLE REIMBURSEMENT ARRANGEMENTS, UTILIZATION REPORTING SYSTEMS, AND IMPROVED MANAGEMENT REPORTING PROCEDURES

Important opportunities exist to improve the efficeincy and productivity of health care institutions. Rapidly rising health care costs are focusing new attention on methods of more efficient operations.

The adoption of improved uniform cost reporting and utilization reporting systems will establish a method for obtaining comparable information for health facilities which can be used to: (1) develop a more rational and equitable reimbursement system; (2) enable longitudinal and inter-institutional comparisons of cost and utilization data in order to identify trends and facilitate policy analysis; (3) develop more effective approaches to cost containment; (4) improve the capacity to detect fraud and abuse; and (5) assist local, State and Federal agencies formulate health planning goals and decisions. The adoption of such improved data systems also will aid health facilities in their own planning and management processes.

Health planning agencies should maintain current knowledge of reimbursement issues, including identification of services that are needed but uncovered for some or all of the population. Agencies should seek to increase the awareness of third party payors and the public concerning health costs and methods for improving reimbursement systems.

Congressional interest in this matter is indicated in the following National Priorities:

(9) "The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions and the development and use of cost saving technologies."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.7. *New Technology*.

WHEN FOUND SAFE AND EFFECTIVE, THE INTRODUCTION OF NEW PROCEDURES AND EQUIPMENT SHOULD TAKE PLACE IN WAYS THAT ENHANCE ECONOMY, EQUITY AND QUALITY. REIMBURSEMENT POLICIES SHOULD FOSTER THE APPROPRIATE USE OF ALL TECHNOLOGY

The effectiveness and safety of clinical procedures, the proliferation of new technology, and new medical practices should be monitored at the National level on a continuous basis. New procedures and specialized equipment are being introduced at an increasing rate, and many have the potential for important advances in the prevention and control of disease.

In addition, the rapid growth of new procedures and special equipment has accounted for over one-third of the increase in medical costs in recent years. The introduction of these new practices and procedures often has led to wasteful and expensive duplication of resources and sometimes has exposed consumers to undesirable and unnecessary risks.

Clearly, a coordinated policy to deal with the problems of determining the relative benefit and cost-effectiveness of new technology is needed. The goal of such a policy should be to (1) assure that only appropriate, necessary, and cost-effective technology will be transferred to health practice, (2) set forth the economic, educational and social impacts of those innovations whose effectiveness and safety have been established clinically, and (3) assure that new technology which meets the first two criteria will be placed in those institutions which are accessible to the entire population that would benefit from that new technology.

Rigorous assessments of medical and surgical practices already in widespread use also are essential. Subjecting common practices to such evaluation offers important opportunities to validate the effectiveness of specific forms of clinical interventions, to use this information to eliminate waste, and to achieve cost effective allocations of limited resources.

The National Center for Health Care Technology was established to coordinate the introduction of new methods and the evaluation of established techniques for prevention, diagnosis, and treatment of disease. This agency is responsible for assembling, analyzing, evaluating, and disseminating information with respect to the need for medical technologies and their utilization and costs in the health system. These and other Federal agency efforts at technology assessment must deal with both low and high cost technologies, diagnostic versus curative technologies, the ease of capital formation for the development and purchase of medical technologies, reviews of reimbursement mechanisms governing the market dissemination of medical technologies, and social issues of access and equity.

Capital regulation now provides planning agencies with a mechanism to limit the growth of the cost of medical care through regulation of capital expenditures for new services, equipment, or facilities. This type of regulation discourages the duplication of services and rationalizes the planning for new services. Financing mechanisms should take into account the need to facilitate the introduction and acceptance of clinically necessary and economically efficient medical technology but they should not promote the spread of unnecessary new practices and equipment. Planning agencies, in assessing new technology, should balance the economic and social costs of new procedures against the medical, educational, social, and economic benefits of their development and introduction.

This goal is in line with the following National Health Priorities:

(9) "The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions and the development and use of cost saving technologies."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.8. *Energy Conservation*.*

EFFORTS SHOULD BE MADE TO PROMOTE AN EFFECTIVE ENERGY CONSERVATION AND FUEL CONSERVATION PROGRAM FOR HEALTH SERVICE INSTITUTIONS TO REDUCE THE RATE OF GROWTH OF DEMAND FOR ENERGY

All planning activities should focus attention on the need to prevent fuel shortages from interrupting the delivery of services and the importance of providing health services in the most energy efficient manner possible in order to contain health care costs and decrease the nation's dependence on imported energy. HSAs, SHPDAs and other organizations which play a role in the health planning process should take steps to increase the use of alternate energy forms, such as solar, geothermal and biomass.

Hospitals and other institutions delivering direct patient care should take a leadership role within communities in terms of energy conservation. There should be vigorous demonstration programs to encourage the health sector to adopt new energy saving technologies or renewable energy resources. Reimbursement systems, both Federal and private, should develop incentives to promote energy savings and conservation. In addition, each health facility should have a written energy conservation program. Applications for new construction projects should contain architectural and engineering designs that are energy efficient. A small increase in front end spending in this area can yield large dollar and energy savings during the lifetime of a facility.

Since a cost-effective health delivery system should address the issue of projected energy costs, Health Plans should reflect the projected or future energy supplies of the region. Planning bodies should obtain the assistance of the State energy policy office in monitoring those energy decisions which will impact their region.

Congressional interest in energy conservation in health facilities is expressed in the following National Health Priority:

(11) "The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy."

C. *Coordinating Community Resources*

Goal III. C. 1. *Access to Support Services for the Chronically Ill and Handicapped.*

A FULL ARRAY OF SUPPORT SERVICES SHOULD BE ACCESSIBLE TO THOSE WITH CHRONIC OR PROLONGED ILLNESSES AND/OR PHYSICAL OR MENTAL HANDICAPS

A substantial number of persons experience serious handicaps and chronic illnesses. About 14 percent of the noninstitutional population report some limitation of activity, and about 11 percent report being limited in a major activity. These percentages include persons of all ages, children as well as the elderly, who suffer from limitations arising from hereditary and congenital conditions, accidents, illness and other causes. The chronically ill and handicapped also include those who suffer from chronic mental illness, drug addiction, and alcoholism.

Eye and vision problems are the second most prevalent chronic health problem in the United States. Although approximately 50 percent of the population needs some form of eye/vision care, only one-half of those needing care are receiving it from any source. Comprehensive vision screening and follow-up services for all children should be available. This should be part of a larger vision conservation program which has as its aim prevention of vision conditions which may preclude an individual from reaching his full personal or educational potential or performing satisfactorily in his environment. Untreated eye/vision conditions can result in a loss of personal productivity, social maladjustments, and reduced quality of life.

Tuberculosis is a chronic condition which still affects approximately 30,000 Americans and their family members annually. This is a particular problem among adults and older adults, refugee populations, medically underserved, economically depressed, and native American populations.

There are an estimated 1.5 million adults with chronically disabling mental health problems. This estimate does not include those who may have a combination of physical and mental problems such as the frail elderly. It also does not include the mentally retarded, mentally ill children, alcoholics and drug addicts. Thus the 1.5 million figure is a conservative estimate.

Those with chronic illnesses and handicaps have particular needs for support services and assistance. Such services include home health care, homemaker services, day care, special housing and rehabilitation programs. They also include transportation, recreation, therapy, and social and employment services. Dental care is an essential service required by all chronically ill and handicapped persons.

Even when such supportive services are available, many barriers exist which prevent people with chronic or prolonged disabilities and their families from receiving the assistance they need. These barriers include the financial costs of obtaining support services as well as cultural and emotional inhibitions against using available assistance. Frequently, they include architectural and communications barriers as well. Another barrier is the basic lack of knowledge about handicapped and disabled people among those who regularly are in contact with them, such as teachers, employers, and medical care personnel.

Making support services accessible to the chronically ill and handicapped by reducing such barriers allows individuals the opportunity to function in their normal environment, in turn, promote both mental and physical health and help to preserve an individual's dignity. Making support services accessible also helps avoid unnecessary and costly institutionalization.

GOAL III.C.2. *Services Coordination and Case Management.*

THERE SHOULD BE CLOSE COORDINATION AMONG THE VARIOUS HEALTH, SOCIAL, REHABILITATIVE AND OTHER HUMAN SERVICES WHICH THOSE WITH CHRONIC OR PROLONGED DISABILITIES OFTEN REQUIRE. CASE MANAGEMENT SHOULD BE AVAILABLE TO THE CHRONICALLY ILL AND HANDICAPPED TO DIRECT THEM TO NEEDED HEALTH AND SUPPORT SERVICES

The provision of sevices to the chronically ill and handicapped is uncoordinated, fragmented, and generally unresponsive to the total needs of the individual. While a large number of agencies and institutions provide services and funding, comprehensive planning, monitoring and management usually is lacking.

In addition, day-to-day decisions about program operations often are divorced from decisions regarding program funding and policy direction, while some critical services such as dental services often are either neglected or insufficiently developed. The chronically ill or handicapped, or members of their families, often have no place they can turn to in order to obtain information about the kinds of services available in a community and the eligibility requirements for those services.

Case management or referral services for the handicapped and the chronically ill also often are lacking or poorly developed in most communities. As a result, the chronically ill and the handicapped frequently must find their way through the maze of health and social programs provided by different agencies on their own. Not only does this inhibit early detection and prevention; it also means individuals with acute needs frequently remain unaware of important services that are available to them.

Case management should be provided to identify and coordinate all the services a handicapped or chronically ill person needs. Case managers should be knowledgeable about both government and private programs which provide employment, rehabilitation, therapy, health care, social services, housing, transportation, and recreation. Such managers should be familiar with the activities of support networks within a community, such as churches, clubs and self-help groups.

Relationship Between National Health Priorities Sec. 1502 and Draft National Health Planning Goals

National priorities	National goals
"(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."	II.5. *Immunization.* III.A.1. *Access to Care.* III.A.2.a. *Primary Care—Supply.* III.A.2.b. *Primary Care—Balance Among Medical Specialties.* III.A.6. *Dental Services.*
"(2) The Development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services)."	III.B.1. *Regionalization.* III.B.2. *Multi-Institutional Systems and Shared Services.* III.B.3. *Emergency Medical Systems.*
"(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."	III.B.2. *Multi-Institutional Systems and Shared Services.* III.B.4. *Options for Care.*
"(4) The training and increased utilization of physicians' assistants, especially nurse clinicians."	III.A.2.a. *Primary Care—Supply.*
"(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions."	III.B.2. *Multi-Institutional Systems and Shared Services.*
"(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act."	III.B.5. *Quality of Health Services.*
"(7) The development of health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis."	III.B.2 *Multi-Institutional Systems and Shared Services.*
"(8) The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."	II.1. *Extension of Disease Prevention and Health Promotion.* II.3. *Prenatal, Maternal and Perinatal Care.* II.4. *Unintended Pregnancy.* II.5. *Immunization.* II.6. *Environmental and Occupational Health.* II.7. *Accidents.* II.8. *Fluoridation.* II.9. *Nutrition.* II.10 *Smoking.*
"(9) The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions, and the development and use of cost saving technology."	III.B.6 *Management Procedures.* III.B.7. *New Technology.*
"(10) The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."	II.1. *Extension of Disease Prevention and Health Promotion.* II.2. *Consumer Information.* II.4. *Unintended Pregnancy.* II.7. *Accidents.* II.9. *Nutrition.* II.10 *Smoking.*
"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy."	III.B.8. *Energy Conservation.*
"(12) The identification and discontinuance of duplicative or unneeded services and facilities."	III.B.1. *Regionalization.* III.B.2. *Multi-Institutional Systems and Shared Services.*
"(13) The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."	II.1. *Extension of Disease Prevention and Health Promotion.* III.A.2.b. *Primary Care—Balance Among Medical Specialties.* III.B.1. *Regionalization.* III.B.6. *Management Procedures.* III.B.7. *New Technology.*
"(14) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."	III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*
"(15) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."	III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*
"(16) The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."	III.A.2.c. *Primary Care—Integration of Mental Health.* III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*

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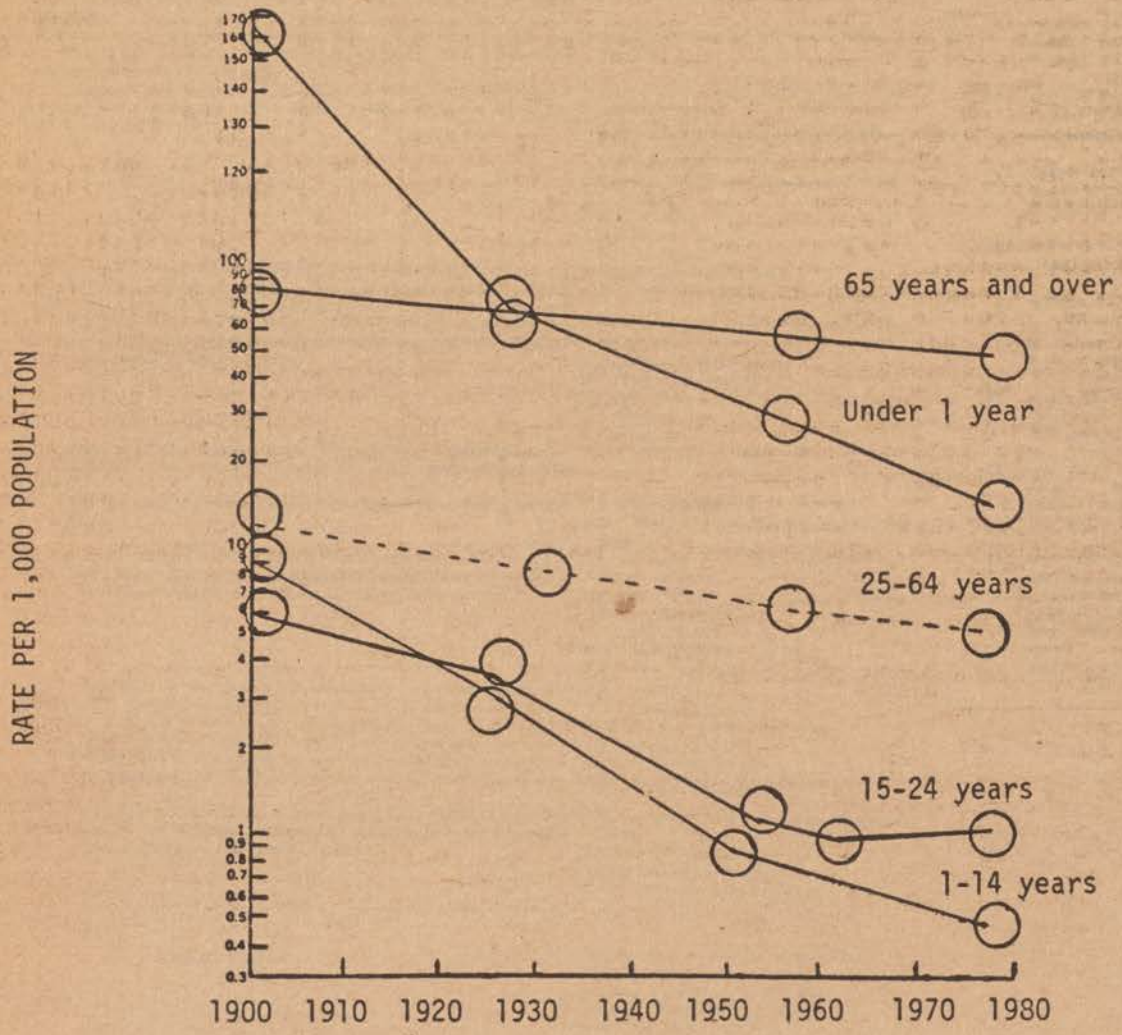
TABLE 1

I: Health Status Outcomes

DEATH RATES BY AGE: UNITED STATES, SELECTED YEARS 1900 - 1977



NOTE: 1977 data are provisional, data for all other years are final. Selected years are 1900, 1925, 1950, 1960 (for age group 15-24 years only), and 1977.

SOURCE: National Center for Health Statistics.

TABLE 2

GOAL I.1. - Health Status Improvements

DEATH RATES FOR 15 LEADING CAUSES OF DEATH: UNITED STATES, 1978

Rank[1]	Cause of death	Death rate (per 100,000 population)	Percent of total deaths
	All causes	882.3	100.0
1	Diseases of heart	333.9	37.8
2	Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	181.6	20.6
3	Cerebrovascular diseases	79.1	9.0
4	Accidents	49.5	5.6
...	Motor vehicle accidents	24.6	2.7
...	All other accidents	24.9	2.8
5	Influenza and pneumonia	26.7	3.0
6	Diabetes mellitus	15.0	1.7
7	Cirrhosis of liver	13.7	1.6
8	Arteriosclerosis	13.4	1.5
9	Suicide	12.6	1.4
10	Certain causes of mortality in early infancy	10.1	1.1
11	Bronchitis, emphysema, and asthma	10.0	1.1
12	Homicide	9.7	1.1
13	Congenital anomalies	5.9	0.7
14	Nephritis and nephrosis	3.7	0.4
15	Septicemia	3.6	0.4
...	All other causes	113.8	12.9

[1] Rank based on number of deaths

Source: National Center for Health Statistics
Division of Vital Statistics, Mortality Statistics Branch,
Provisional 1978 data

TABLE 3

GOAL I.1 - Health Status Improvements

AGE-ADJUSTED DEATH RATES[1] FOR 15 LEADING CAUSES OF DEATH AND PERCENT CHANGE FROM PREVIOUS YEAR: UNITED STATES, 1978

Rank[2]	Cause of death	Age-adjusted death rate (per 100,000 population)	Percent change from 1977 to 1978
	All causes	605.5	-1.1
1	Diseases of heart	207.3	-1.5
2	Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	133.2	0.1
3	Cerebrovascular diseases	44.4	-7.9
4	Accidents	45.3	3.4
...	Motor vehicle accidents	24.0	7.1
...	All other accidents	21.3	-0.4
5	Influenza and pneumonia	15.4	8.5
6	Diabetes mellitus	10.1	-2.9
7	Cirrhosis of liver	12.4	-5.3
8	Arteriosclerosis	6.1	-1.6
9	Suicide	12.2	-5.4
10	Certain causes of mortality of early infancy	n.a.[3]	n.a.[3]
11	Bronchitis, emphysema, and asthma	6.8	-5.6
12	Homicide	9.9	3.1
13	Congenital anomalies	n.a.[3]	n.a.[3]
14	Nephritis and nephrosis	2.5	-7.4
15	Septicemia	2.6	8.3
...	All other causes	80.8	...

[1] Standard to which rates are adjusted is the 1940 U.S. enumerated population.

[2] Rank based on number of deaths

[3] Inasmuch as deaths from these causes occur almost entirely among infants, rates adjusted to the total population of the United States in 1940 are not shown.

Source: National Center for Health Statistics: Division of Vital Statistics, Mortality Statistics Branch, Provisional 1978 data.

TABLE 4

GOAL I.2.a. - Infant Health

LIVE BIRTHS BY BIRTH WEIGHT AND RACE: UNITED STATES, 1977

Birth Weight	Total United States		White		Black	
	Number	Percent	Number	Percent	Number	Percent
TOTAL	3,326,632	100	2,691,070	100	544,221	100
500 grams or less	3,040	0.09	1,884	0.07	1,096	0.2
501-1500 grams	34,562	1.0	21,939	0.8	11,820	2.2
1501-2500* grams	197,282	5.9	135,521	5.0	56,560	10.4
2501 grams or more	3,085,263	92.7	2,526,632	93.9	473,583	87.0
Not stated	6,485	0.2	5,094	0.2	1,162	0.2

*Upper limit for low-birth weight status

Source: National Center for Health Statistics, Division of Vital Statistics, Natality Statistics Branch, 1977 accumulated data.

TABLE 5

GOAL I.2.a. - Infant Health

PERCENT LOW BIRTH WEIGHT* BY EDUCATION ATTAINMENT OF MOTHER, MONTH OF PREGNANCY PRENATAL CARE BEGAN, AND RACE, 1977**

Race and Month of Pregnancy Prenatal Care Began

Years of School Completed	TOTAL			1st - 2nd			3rd			4th - 6th			7th - 9th			No Prenatal care			Not Stated		
	All	W	B	All	W	B	All	W	B	All	W	B	All	W	B	All	W	B	All	W	B
TOTAL	7.2	6.0	12.9	6.2	5.4	11.9	6.7	5.6	12.2	8.6	6.9	12.9	8.5	7.1	11.9	21.1	17.3	27.2	10.5	8.4	15.9
0-8 years	9.6	8.3	14.7	8.8	7.8	13.5	9.0	7.8	13.8	9.9	8.3	14.8	8.4	7.0	13.2	18.8	17.0	25.1	12.2	10.4	18.3
9-11 years	10.2	8.4	14.6	9.2	7.8	14.0	9.6	8.0	14.2	10.2	8.5	13.7	9.8	8.2	13.1	23.8	20.0	28.5	13.7	10.9	18.4
12 years	6.7	5.6	12.0	6.0	5.3	11.4	6.3	5.4	11.4	7.9	6.1	12.2	7.7	6.5	10.5	19.2	15.2	25.1	9.9	8.0	14.6
13-15 years	5.7	4.9	10.9	5.4	4.8	10.6	5.3	4.6	10.0	6.6	5.2	10.8	7.2	5.4	11.3	18.7	14.5	25.2	9.0	7.8	12.4
16 years & over	4.8	4.4	9.0	4.8	4.4	8.8	4.4	4.0	8.2	4.9	4.2	9.3	4.9	4.5	6.9	13.4	11.8	18.1	7.4	6.3	13.5
Not Stated	9.7	7.5	16.2	8.1	6.7	15.7	8.4	6.5	14.4	11.1	8.5	15.3	10.4	9.2	13.1	26.4	18.3	39.4	9.6	7.6	16.1

*Low birth weight defined as 2,500 grams or less.

**Total of 41 reporting States and the District of Columbia

Source: National Center for Health Statistics, Division of Vital Statistics, Mortality Statistics Branch, 1977 data.

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Table 6.—*Goal I.2.b.—Infant Health—Infant Mortality Rates,[1] 1966–1979*

Calendar year	Rate	Percent reduction from previous year
1979[2]	13.1	3.68
1978 (provisional)	13.6	3.55
1977	14.1	7.24
1976	15.2	5.59
1975	16.1	3.59
1974	16.7	5.65
1973	17.7	4.32
1972	18.5	3.14
1971	19.1	4.50
1970	20.0	4.31
1969	20.9	4.13
1968	21.8	2.68
1967	22.4	5.49
1966	23.7	[3]

[1] Per 1,000 live births.
[2] Ten month period ending October 1979.
[3] Not applicable.

Source: National Center for Health Statistics, Division of Vital Statistics, Mortality Statistics Branch, 1979 Data.

Table 7.—*Goal I.2.b.—Infant Health—Frequency of Infant Mortality Rates[1] by State, 1978*

Rate	Number of States	Percent
8.0–10.9	8	15.7
11.0–13.9	23	45.1
14.0–16.9	16	31.4
17.0–19.9	3	5.9
20.0 and above	1	2.0

[1] Rate is per 1,000 live births.

Source: National Center for Health Statistics, Division of Analysis, Accumulated Data.

Table 8.—*Goal I.2.b.—Infant Health—Infant Mortality Rates[1] by State, 1978*

State	Rate
Alabama	16.4
Alaska	16.3
Arizona	15.0
Arkansas	14.3
California	11.6
Colorado	11.9
Connecticut	9.6
Delaware	12.0
District of Columbia	23.1
Florida	14.2
Georgia	14.7
Hawaii	11.8
Idaho	9.7
Illinois	14.7
Indiana	12.2
Iowa	11.8
Kansas	11.5
Kentucky	12.0
Louisiana	17.8
Maine	9.2
Maryland	14.4
Massachusetts	9.7
Michigan	13.4
Minnesota	12.3
Mississippi	17.1
Missouri	16.0
Montana	10.0
Nebraska	13.8
Nevada	11.3
New Hampshire	8.3
New Jersey	11.8
New Mexico	14.5
New York	16.3
North Carolina	16.3
North Dakota	13.1

Table 8.—*Goal I.2.b.—Infant Health—Infant Mortality Rates[1] by State, 1978*—Continued

State	Rate
Ohio	13.0
Oklahoma	13.8
Oregon	13.2
Pennsylvania	14.8
Rhode Island	15.7
South Carolina	18.5
South Dakota	12.0
Tennessee	16.1
Texas	13.8
Utah	12.0
Vermont	11.4
Virginia	13.3
Washington	11.5
West Virginia	15.1
Wisconsin	9.2
Wyoming	9.0

[1] Rate is per 1,000 live births.

Source: National Center for Health Statistics, Division of Analysis, Provisional Data.

Table 9.—*Goal I.4.—Preventable Communicable Diseases—Frequency and Percentage Distributions of Mortality Rates for Selected Preventable Communicable Diseases[1] by State, 1977*

Rate per 100,000	Number of States	Percent
15.2–21.9	4	7.8
22.0[2]–26.9	7	13.7
27.0–31.9	16	31.4
32.0–36.9	18	35.3
37.0 and above	6	11.8

[1] See Eighth Revision International Classification of Diseases, Adopted, 1965: codes 000–136, 466, 470–474, and 480–486. In order, these groupings represent: tuberculosis, poliomyelitis, measles, infectious hepatitis, and other infective and parasitic diseases; acute bronchitis and bronchiolitis; influenza; and pneumonia.
[2] Target for achievement.

Source: National Center for Health Statistics: Division of Vital Statistics, unpublished 1977 data (accumulated).

Table 10.—*Goal I.4.—Preventable Communicable Diseases*

[Number of deaths and mortality rates for selected preventable communicable diseases,[1] by State, 1977]

State	Deaths by disease classification No.				Total	Rate per 100,000
	000–136	466	470–474	480–486		
Alabama	378	16	75	804	1,273	34.5
Alaska	23	2		38	63	15.5
Arizona	217	7	7	518	749	32.6
Arkansas	232	9	27	523	791	36.9
California	1,353	74	88	4,169	5,684	26.0
Colorado	156	3	33	602	794	30.3
Connecticut	219	6	5	633	863	27.8
Delaware	34			93	127	21.8
District of Columbia	119	2		214	335	48.6
Florida	766	38	43	2,112	2,959	35.0
Georgia	523	12	59	1,282	1,876	37.2
Hawaii	69	2	2	150	223	24.9
Idaho	41	4	9	158	212	24.7
Illinois	736	36	52	2,899	3,723	33.1
Indiana	386	20	33	1,101	1,540	28.9
Iowa	168	10	24	799	1,001	34.8
Kansas	168	7	29	547	751	32.3
Kentucky	298	15	22	934	1,269	36.7
Louisiana	473	11	31	815	1,330	33.9
Maine	66	10	8	264	348	32.1
Maryland	366	7	6	652	1,031	24.9
Massachusetts	487	13	10	1,872	2,382	41.2
Michigan	605	23	21	1,636	2,285	25.0
Minnesota	226	13	24	959	1,222	30.7
Mississippi	259	7	20	558	844	35.3
Missouri	434	13	35	1,287	1,769	36.8
Montana	33	5	8	149	195	25.6
Nebraska	94	4	20	427	545	34.9
Nevada	34		1	95	130	20.5
New Hampshire	56	1	4	196	257	30.3
New Jersey	599	28	30	1,617	2,274	31.0
New Mexico	105	5	3	235	348	29.2
New York	1,284	71	43	5,358	6,756	37.7
North Carolina	508	20	77	1,263	1,868	33.8
North Dakota	38	1	4	150	193	29.6
Ohio	723	28	60	2,271	3,082	28.8
Oklahoma	252	10	15	768	1,045	37.2
Oregon	142	9	22	534	707	29.8
Pennsylvania	1,158	35	40	2,731	3,964	33.6
Rhode Island	57	4		144	205	21.9
South Carolina	286	11	52	627	976	33.9
South Dakota	27	4	7	173	211	30.6
Tennessee	386	8	40	1,024	1,458	33.9
Texas	1,126	34	68	2,686	3,914	30.5
Utah	77	2	7	214	300	23.7
Vermont	41	3		128	172	35.6
Virginia	442	14	23	1,096	1,575	30.7
Washington	193	12	39	776	1,020	27.9
West Virginia	163	7	8	524	702	37.8
Wisconsin	283	20	65	997	1,365	29.3
Wyoming	21	1	5	87	114	28.1
Total	16,930	697	1,304	49,889	68,820	31.8

[1] See Eighth Revision International Classification of Diseases, Adapted, 1965: codes 000–136, 466, 470–474, and 480–486. Groupings include a number of nonpreventable communicable diseases. See first footnote, Table 9.

Source: National Center for Health Statistics: Division of Vital Statistics, unpublished 1977 data.

Table 11.—*Goal I.7.—Older Adult Health*

[Selected chronic conditions causing limitation of activity by age: United States, 1976[1]]

	Both sexes, all ages	17–44 yrs	45–64 yrs	65 yrs and over
Number of persons limited in activity	30,175,062	7,512,474	10,504,689	9,891,204
	Percent of persons limited in activity			
Chronic conditions:				
Arthritis and rheumatism	16.8	6.8	19.6	24.9
Heart conditions	15.7	4.8	19.0	23.4
Hypertension without heart involvement	6.9	3.4	9.0	8.9
Diabetes	5.1	2.3	6.8	6.3
Mental and nervous conditions	4.9	5.9	5.7	3.0
Asthma	4.8	5.9	3.4	2.1
Impairments of back and spine	7.5	13.9	7.9	3.3
Impairments of lower extremities and hips	6.1	8.0	5.6	5.0
Visual impairments	5.4	4.2	4.0	8.2
Hearing impairments	2.5	2.7	1.9	2.4

[1] Data are based on household interviews of a sample of the civilian noninstitutionalized population.

Source: Division of Health Interview Statistics, National Center for Health Statistics: Data from the Health Interview Survey.

Table 12.—*Sub-Goal 1 E—Alcoholism*—Estimated National Health Expenditures as a Result of Alcohol Abuse in 1975, According to Type of Expenditure

Type of expenditure	Total adult population expenditures (billion)	Expenditures resulting from alcohol abuse (billion)	Expenditures resulting from alcohol abuse as a percentage of total expenditures
Health Service/Supplies:			
Hospital care	$42.3	$8.40	19.9
Physicians' services	17.9	1.30	7.3
Dentists' services	6.2		
Other prof. services	1.7	0.12	7.3
Drug & Drug sundries	8.9	0.28	3.2
Eyeglasses/ Appliances	2.0		
Nursing home care	8.8	0.19	2.2
Expenses for prepayment & administration	3.9	0.78	19.9
Government public health services	2.5	0.39	13.1
Other health services	3.0	0.33	13.1
Research & medical facilities construction	6.1	0.78	13.1
Training & education	2.3	0.17	7.3
Total	105.6	12.74	12.1

Source: Berry, R. Jr., Boland, J., Smart, C., and Kanak, J., "The Economic Cost of Alcohol Abuse/1975, Report prepared for the National Institute on Alcohol Abuse and Alcoholism, Contract No. ADM 281-76-0016, 1977.

Table 13.—*Goal I.9. Drug Abuse—Percentage of Youth (Ages 12-17) Reporting Use of Selected Drugs During the 30 Days Prior to Interviewing, 1974–1977*

Drug	Percentage reporting use			
	1974	1976	1977	74–77 change
Marijuana and/or hashish	11.6	12.4	16.1	+4.5
Inhalants	.7	.9	.7	0.0
Hallucinogens	1.3	.9	1.6	+0.3
Cocaine	1.0	1.0	.8	−0.2
Nonmedical use of:				
—Stimulants (Rx)	1.0	1.2	1.3	+0.1
—Sedatives (Rx)	1.0	*	.8	−0.2
—Tranquilizers (Rx)	1.0	1.1	.7	−0.3
Alcohol	34.0	32.4	31.2	−2.8
Cigarettes	25.0	23.4	22.3	−2.7

*Less than 0.5%.

Source: Adapted from Abelson, Herbert; Fishburne, Patricia; and Cisin, Ira, *National Survey on Drugs Abuse: 1977*, National Institute on Drug Abuse, Table 10, page 30.

Table 14.—*Goal I.9. Drug Abuse—Percentage of High School Seniors Reporting Use of Selected Drugs During the 30 Days Prior to Interview: 1975–1977*

Drug	Percent reporting use			
	1975	1976	1977	75–77 change
Marijuana and/or Hashish	27.1	32.2	35.4	+8.3
Inhalants	n/a	0.9	1.3	n/a
Hallucinogens	4.7	3.4	4.1	−0.6
Cocaine	1.9	2.0	2.9	+1.0
Nonmedical use of:				
—Stimulants	8.5	7.7	8.8	+0.3
—Sedatives	5.4	4.5	5.1	−0.3
—Tranquilizers	4.1	4.0	4.6	+0.5
Alcohol	68.2	68.3	71.2	+3.0
Cigarettes	36.7	38.8	38.4	+1.7

N/A—Data not available.

Source: Adapted from Johnson, Lloyd; Bachman, J.; and O'Malley, P.M., *Drug Use Among American High School Students: 1975 to 1977*, Table 1-5.

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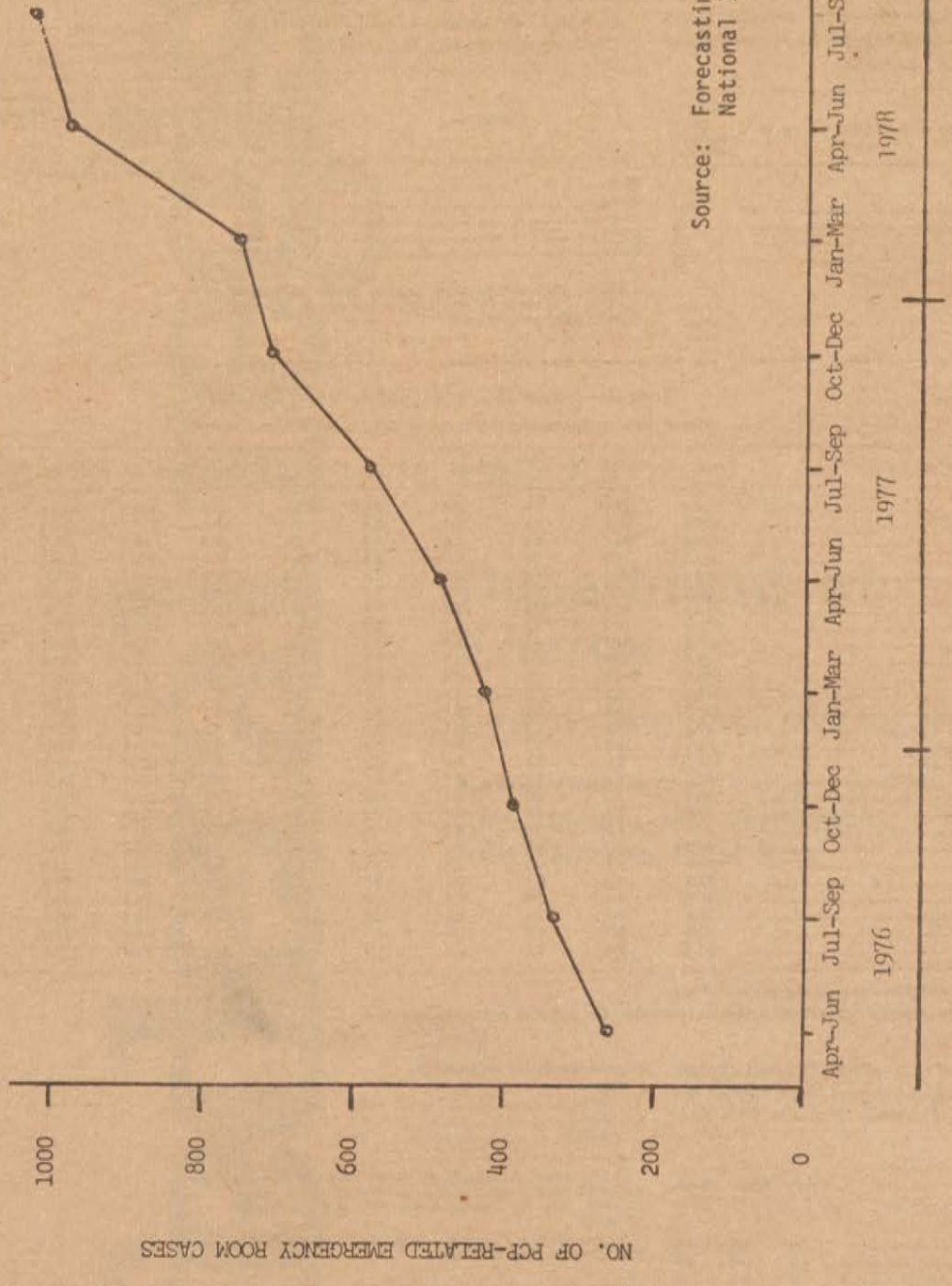
TABLE 15

GOAL I.9. Drug Abuse

NO. OF PCP-RELATED EMERGENCY ROOM CASES REPORTED
BY 677 CONSISTENTLY-REPORTING HOSPITAL EMERGENCY ROOMS
PROJECT DAWN
April 1976 - September 1978



Source: Forecasting Branch
National Institute on Drug Abuse

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Table 16.—*Goal I.9.—Drug Abuse—Number of Drug Related Deaths, U.S., 1974–1977*

Year	1977	1976	1975	1974
Total	6,681	7,908	8,503	7,623
Dependance	551	1,143	1,358	1,174
Accident	2,214	2,839	3,132	2,742
Suicide	3,125	3,002	3,078	2,904
Undeterminable intention [1]	791	924	935	803
Death Rate per 100,000	3.09	3.68	3.99	3.61

[1] Unknown whether accidental, homicidal, or suicide.

Source: Greenberg, National Center for Health statistics: Division of Vital Statistics.

Table 17.—*Goal I.10—Oral Health—Tooth Loss Due to Dental Caries for Persons Aged 17 Years, U.S., 1971–74*

Number of permanent teeth lost due to caries	Percent of persons examined
No Mission Teeth	61.6
With Missing Teeth	38.4
1 Tooth	11.4
2 Teeth	6.3
3 Teeth	6.9

Table 17.—*Goal I.10—Oral Health—Tooth Loss Due to Dental Caries for Persons Aged 17 Years, U.S., 1971–74* —Continued

Number of permanent teeth lost due to caries	Percent of persons examined
4 or More Teeth	13.8

Source: National Center for Health Statistics: Division of Health Interview Statistics, Health and Nutrition Examination Survey.

Table 18.—*Goal I.10—Oral Health—Percent of Adults Who Retain at Least Some Natural Teeth, by Age Groups, U.S., 1971–74*

Age group	Percent of persons who retain at least some natural teeth
25–34	96.3
35–44	90.0
45–54	82.8
55–64	66.4
65–74	52.8

Source: Data derived from National Center for Health Statistics: Division of Health Interview Statistics, Health and Nutrition Examination Survey.

Table 19.—*Goal I.11—Heart Disease, Cancer and Stroke—Age Adjusted Death Rates [1] for the Three Leading Causes of Death, by Color and Sex, U.S., 1977*

	Total	White	Other
Diseases of the Heart:			
Both	210.4	206.8	237.9
Male	294.7	294.0	297.8
Female	142.9	137.2	188.7
Cancer:			
Both	133.0	130.0	159.3
Male	164.5	160.0	205.4
Female	110.0	108.3	122.4
Stroke:			
Both	48.2	45.3	73.4
Male	53.5	50.4	79.8
Female	44.2	41.5	68.0

[1] Rates based on age-specific death rates per 100,000 estimated mid-year population in specified group. Standard to which rates are adjusted is the 1940 U.S. enumerated population.

Source: National Center for Health Statistics, Division of Vital Statistics, Final 1977.

Table 20.—*Subgoal 1D—Health Disease, Cancer, and Stroke*

[Death rates [1] for the three leading causes of death, by age, sex, and color, 1976]

Cause of death, color, and sex	Total	Under 1 yr	1–4 yrs	5–14 yrs	15–24 yrs	25–34 yrs	35–44 yrs	45–54 yrs	55–64 yrs	65–74 yrs	75–84 yrs	85 plus yrs
Heart disease:	337.2	23.1	1.8	0.9	2.6	8.5	50.8	199.8	552.4	1,286.9	3,263.7	7,384.3
Male	383.5	26.1	2.1	0.9	3.4	12.0	80.1	317.7	840.6	1,847.6	4,136.7	8,274.9
Female	293.4	20.1	1.6	0.9	1.9	5.1	22.9	89.5	293.9	856.2	2,731.1	6,965.4
White	351.3	19.0	1.6	0.8	2.1	6.9	45.7	188.4	534.5	1,272.0	3,295.2	7,701.7
Male	399.4	22.4	1.8	0.8	2.8	10.0	74.2	307.7	829.6	1,857.6	4,221.0	8,692.9
Female	305.5	15.5	1.4	0.8	1.4	3.8	18.1	75.7	268.6	824.0	2,738.7	7,244.5
All Other	244.8	43.6	2.8	1.4	5.6	19.4	85.7	290.9	720.8	1,428.2	2,912.7	4,400.0
Male	276.5	44.6	3.5	1.5	6.9	26.6	124.9	401.3	948.5	1,755.1	3,289.7	4,826.5
Female	215.9	42.6	2.2	1.3	4.4	13.2	53.5	195.0	526.2	1,166.6	2,640.4	4,160.3
Cancer	175.8	3.2	5.3	5.0	6.5	14.5	51.5	182.0	438.4	786.3	1,248.6	1,441.5
Male	196.6	3.4	5.6	5.8	8.0	14.0	46.6	187.9	520.4	1,060.1	1,782.1	2,042.0
Female	156.0	3.1	5.0	4.1	5.1	15.0	56.2	176.5	364.9	576.0	922.9	1,159.0
White	180.2	3.3	5.6	5.1	6.6	14.4	49.1	173.4	424.7	776.9	1,248.0	1,482.7
Male	199.2	3.1	5.9	6.1	8.0	14.0	43.8	175.5	496.6	1,042.8	1,784.4	2,110.9
Female	162.0	3.6	5.3	4.1	5.2	14.8	54.3	171.4	360.0	573.4	925.7	1,192.8
All other	147.1	2.8	4.1	4.3	6.2	15.4	68.2	251.3	566.8	875.6	1,254.7	1,054.5
Male	179.2	4.7	4.2	4.7	7.7	13.7	67.4	292.0	750.1	1,219.0	1,759.0	1,473.5
Female	117.8	0.8	4.0	3.9	4.8	16.9	68.9	215.8	410.2	600.7	890.4	819.0
Stroke	87.9	4.4	0.7	0.6	1.2	3.4	11.5	31.4	85.8	280.1	1,014.0	2,586.8
Male	77.1	4.5	0.8	0.6	1.4	3.5	11.3	33.3	99.0	334.7	1,098.9	2,574.4
Female	98.0	4.3	0.7	0.5	1.1	3.3	11.6	29.6	73.9	238.1	962.1	2,592.6
White	88.9	3.9	0.7	0.6	1.1	2.8	8.9	25.4	74.5	259.1	1,006.5	2,684.0
Male	76.8	4.3	0.7	0.6	1.2	2.8	8.6	26.7	87.0	313.3	1,094.4	2,678.6
Female	100.5	3.4	0.6	0.5	1.0	2.8	9.1	24.2	63.2	217.6	953.6	2,686.4
All other	80.9	6.7	1.1	0.5	2.2	7.9	29.6	79.4	191.9	478.1	1,097.3	1,673.0
Male	79.3	5.0	1.2	0.6	2.5	9.2	31.7	88.4	214.9	531.3	1,144.0	1,714.7
Female	82.3	8.4	1.0	0.5	1.9	6.8	27.9	71.6	172.4	435.6	1,063.6	1,645.8

[1] Rates per 100,000 estimated population in specified group.

Source: National Center for Health Statistics; Division of Vital Statistics, published and unpublished data.

Table 21.—*Goal I. 11—Heart Disease, Cancer and Stroke—Age-Adjusted Death Rates [1] for Hypertensive Disease, by Color and Sex, U.S., 1977*

	Total	White	Other
Hypertension:			
Both	1.6	1.3	4.1
Male	1.9	1.6	4.6
Female	1.4	1.1	3.6
Hypertensive Heart Disease:			
Both	2.1	1.7	5.6
Male	2.1	1.7	5.4
Female	2.0	1.6	5.4
Hypertensive Heart and Renal Disease:			
Both	0.9	0.8	1.8
Male	1.1	0.9	2.0
Female	0.7	0.7	1.6

[1] Rates based on age-specific death rates per 100,000 estimated mid-year population in specified groups. Standard to which rates are adjusted is the 1940 U.S. enumerated population.

Source: National Center for Health Statistics, Division of Vital Statistics, Final 1977 data.

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November 25, 1980

Part XII

Department of Energy

Economic Regulatory Administration

Newly Discovered Crude Oil Rule Amendments and Verification Requirements; Final Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-78-26-A]

Newly Discovered Crude Oil Rule Amendments and Verification Requirements

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby gives notice of a final rule that revises the regulations concerning newly discovered crude oil, heavy crude oil, and market level new crude oil and that adds a definition of the term "produced and sold."

The rule makes certain amendments in the existing newly discovered crude oil ceiling price rule. First, eligibility for the newly discovered crude oil price rule will be dependent on production of crude oil from a "newly discovered crude oil property," which is defined to be a property from which crude oil was not produced and sold in commercial quantities in calendar year 1978. Second, the regulations concerning unitized properties that include newly discovered crude oil properties is revised to lessen any disincentives to form such units. Third, a producer will be permitted to certify on a one-time basis a newly discovered crude oil property and also the volume of imputed newly discovered crude oil from a unitized property. Fourth, a producer of newly discovered crude oil will be required to identify newly discovered crude oil properties to DOE and to maintain certain records and supporting documentation for each newly discovered crude oil property or each unitized property from which newly discovered crude oil is imputed.

With respect to heavy crude oil properties, the rule specifies the treatment of unitized properties that include heavy crude oil properties. In addition, express certification and recordkeeping requirements are set forth for producers of heavy crude oil and market level new crude oil.

The rule also adds a definition of "produced and sold" that will be applicable to the provisions of Part 212, Subparts C and D.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT:

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William Carson or Douglas Harnish (Office of Regulatory Policy), Economic Regulatory Administration, 2000 M Street, N.W., Room 7304, Washington, D.C. 20461 (202) 653-4290.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585 (202) 252-6739.

SUPPLEMENTAL INFORMATION:

I. Background

On June 16, 1980, we proposed several changes to the crude oil price regulations concerning newly discovered crude oil, heavy crude oil and market level new crude oil. We also proposed a definition for the term "produced and sold." (45 FR 42222, June 23, 1980, "June 23 Notice")

Most of the proposed changes concerned newly discovered crude oil. Currently, § 212.79(b) defines newly discovered crude oil to be domestic crude oil which is produced from a new lease on the Outer Continental Shelf or from a property from which no crude oil was produced in calendar year 1978. Since newly discovered crude oil status is entirely dependent on the production history of the property from which crude oil is produced, we decided that it would be appropriate to adopt a definition of a "newly discovered crude oil property" and to structure the regulations concerning newly discovered crude oil around that definition.[1] Accordingly, we proposed a definition of "newly discovered crude oil property."

The test for newly discovered crude oil status under the existing rule is whether there was *no production* in calendar year 1978 from the applicable property.[2] We proposed, however, a definition of a newly discovered crude oil property for which the test would be whether there was no crude oil produced *and sold* in calendar year 1978. We decided to base the definition of newly discovered crude oil property on "produced and sold" for several reasons. Since the concept of "produced and sold" has been used extensively throughout the crude oil price regulations, producers are familiar with the term and our interpretation of it and, thus, should have no difficulty in determining whether a property qualifies as a newly discovered crude oil property.[3] In addition, "produced and sold" would establish a more enforceable standard as production and sales records can be verified with information reported to DOE by first purchasers, whereas similar information concerning only production is not readily available to DOE. Another important consideration was that this definition would not exclude any crude oil eligible for newly discovered crude oil status under the existing rule.

We also proposed an alternative definition of a newly discovered crude oil property that would be based on whether no crude oil had been *produced and sold in commercial quantities* in calendar year 1978. Even though the addition of "in commerical quantities" would expand the scope of the newly discovered crude oil rule to include some properties that produced and sold crude oil in calendar year 1978, we decided such a definition should be considered since the Internal Revenue Service ("IRS") might adopt a definition based on production in commerical quantities for purposes of the Windfall Profit Tax. Since the concept of "in commerical quantities" does not have a well-established meaning, we specifically requested comments concerning a definition for it.

In connection with the proposed definition of a "newly discovered crude oil property", we proposed revising the crude oil certification regulations concerning newly discovered crude oil. Under this proposed revision, a producer would be allowed to certify on

[1] Stripper well crude oil and heavy crude oil status are also dependent on the production history of a property. The existing regulations concerning those types of crude oil are based on definitions of "stripper well property" and "heavy oil property", respectively. *See* 10 CFR 212.54 and 212.59.

[2] Ruling 1980-3 (45 FR 48577, July 21, 1980) discusses the meaning of production with respect to the existing newly discovered crude oil rule.

[3] Any possible misunderstanding as to what "produced and sold" means should be eliminated by our adoption elsewhere in this Notice of a definition of "produced and sold" that will set forth in the regulations our long-standing interpretation of that term.

a one-time basis to each purchaser that a property is eligible for treatment as a newly discovered crude oil property. Similarly, where crude oil produced and sold from a unitized property is sold to a single purchaser, a producer would be allowed to certify on a one-time basis to the purchaser the number of barrels of imputed newly discovered crude oil. This treatment would be consistent with the certification procedures used in relation to crude oil produced from a stripper well property, and was not intended to remove the responsibility for proper certification from the producer. In order to promote proper certifications, we proposed to permit a purchaser to require a producer to certify the basis on which the property or the unitized property qualified as a newly discovered crude oil property.

We also proposed pre-certification filing and verification recordkeeping requirements for newly discovered crude oil properties by which we could determine whether the certification was proper. Under the proposal, a producer of crude oil would be requried (1) to file pre-certification information with the appropriate DOE office at least 60 days before it could certify to a first purchaser that a property or unitized property is a newly discovered crude oil property or that any crude oil is imputed newly discovered crude oil; and (2) to prepare and maintain certain records, in a central location, verifying that a property or a unitized property qualifies as a newly discovered crude oil property or that a unitized property qualifies to have newly discovered crude oil imputed. If a producer did not comply with these requirements for a property, that property would be denied newly discovered status.

The June 23 Notice also proposed to clarify the amount of imputed newly discovered crude oil produced from a unitized property that included only newly discovered crude oil properties. The definition of "imputed newly discovered crude oil" would be revised to make clear that all crude oil produced and sold from such unitized property would qualify as imputed newly discovered crude oil.

We also address another issue concerning imputed newly discovered crude oil in the June 19 Notice. Application of the existing definition of imputed newly discovered crude oil understates the amount of imputed newly discovered crude oil production attributable to a property with a production history of less than 12 months. Currently, the Office of Hearings and Appeals (OHA) deals with this situation on a case-by-case basis. Comments were sought as to whether standards, which OHA would apply in such case-by-case determinations, should be established through a rulemaking, or whether OHA should formulate an adjudicatory standard for application on a case-by-case basis. We specifically requested comments as to the feasibility of shortening the 12-month period currently required for a producer to determine how much crude oil produced and sold from a unitized property should be imputed newly discovered crude oil.

The June 23 Notice also contained three proposals concerning heavy crude oil. As with stripper well properties and newly discovered crude oil properties, the price regulations could provide a discentive for creating unitized properties containing heavy crude oil properties. To minimize such a disincentive, we proposed to provide for imputed heavy crude oil production from a unitized property that was formed in whole or in part from heavy crude oil properties. The amount of imputed heavy crude oil would be determined in the same manner as imputed newly discovered crude oil.

We also proposed to require a producer of heavy crude oil or imputed heavy crude oil to maintain certain records which would set forth the basis on which it determined the heavy crude oil status of any property or unitized property from which it sells crude oil certified as heavy crude oil or imputed heavy crude oil. These records would document the weighted average gravity of the crude oil produced and sold from a particular property during the first month prior to July 1979 in which crude oil was produced and sold from that property. Additionally, with respect to each heavy crude oil property into which a diluent had been injected, a producer would be required to maintain records which set forth the amounts of diluent injected and the dates of injection.

As with newly discovered crude oil, we proposed to require a producer to certify to a purchaser on a one-time basis that crude oil was produced from a heavy crude oil property and, if requested by the purchaser, the basis on which the property qualifies as a heavy crude oil property. Imputed heavy crude oil would be certified by volume to the first purchaser.

The June 23 Notice also proposed that market level new crude oil be added as an express category of crude oil to be certified to the purchaser. In those cases where a one-time certification for a property was permitted, a producer would be required to certify on a one-time basis the market level factor used to determine the amount of market level new crude oil for each month in the period January 1980 through September 1981. Similar treatment was proposed for unitized properties.

We also proposed to require producers to maintain records with respect to crude oil certified as market level new crude oil. These records would set forth the volume of crude oil so certified for each month, the names of the purchasers of such oil and the volumes that they purchased.

Finally, in light of the decision in *Tenneco Oil Company* v. *FEA*, —— F2d —— (TECA, December 3, 1979), the June 23 Notice contained a proposed definition of "produced and sold". This definition would constitute a regulatory definition of what DOE and its predecessor agencies have interpreted the term "produced and sold" to mean.

II. Discussion of Comments

We held public hearings on the proposals contained in the June 23 Notice in Washington, D.C., and Houston, Texas, on July 22, 1980, and July 15, 1980, respectively. We accepted written comments on these proposals through August 23, 1980.

We received over 393 comments on these proposals. The great majority (317) only address the proposal to establish pre-certification filing and verification recordkeeping requirements for newly discovered crude oil properties. In all, 382 comments addressed this proposal and they unanimously opposed its adoption. The reason most often cited for opposition was the administrative and financial burden that these requirements would place on producers of newly discovered crude oil. Independent producers were most emphatic that their operations would be strained severely by the imposition of these requirements for which they possessed only limited resources with which to comply. It should be noted, however, that many of the opposing comments also indicated that, if requested by DOE with respect to a particular property, there would be no difficulty in supplying the information specified in the proposed pre-certification filing and verification recordkeeping requirements. Another frequently cited objection to the proposal was the sixty day waiting period after the pre-certification filing before a producer could certify crude oil as newly discovered crude oil. The comments stated that this waiting period, in combination with the prohibition against recertifying crude oil more than two months after its sale, could result in a producer's not being able to receive the market price for

some of its early production from a newly discovered crude oil property.

The proposed definition of a newly discovered crude oil property was the other issue on which we received a substantial number of comments. All but one of these comments favored adoption of the "commercial quantities" alternative proposal on the grounds that production prior to well completion or test production in calendar year 1978 should not deny newly discovered crude oil status to a property. The comments suggested various tests for determining when production in commercial quantities begins. These tests include producing for seven consecutive days, obtaining a production allowable from a state commission, hooking up to a pipeline, or installing permanent tank batteries. Finally, some comments suggested that the definition of a newly discovered crude oil property should be adopted on a retroactive basis to June 1, 1979.

Some of the comments considered the proposals concerning unitized properties. No comment opposed the general proposal to establish "imputed heavy crude oil." Those comments that considered the proposals for units comprised entirely of heavy crude oil properties or newly discovered crude oil properties favored the objective of those proposals. Some comments, however, suggested that it would be simpler to include such units in the definitions of newly discovered crude oil property or heavy crude oil property. Those comments that considered the problem of computing the volume of imputed newly discovered crude oil or imputed heavy crude oil for units containing properties with production histories of less than twelve months favored a solution that did not involve obtaining exception relief from OHA.

Those comments that considered the proposals concerning certifications for production from a newly discovered crude oil property or heavy crude oil property favored the proposals. Several comments objected to the provision that would allow a purchaser to request the basis for a certification. Those comments that considered the proposal concerning certification of market level new crude oil did not object to such certification, although several comments thought the certification of the market level factor for each month to be unnecessary.

Those comments that considered the recordkeeping requirements for heavy crude oil properties and market level new crude oil did not oppose these requirements. In fact, some comments suggested that these requirements be adopted for newly discovered crude oil properties.

Several comments addressed the proposed definition of "produced and sold." In general, those comments opposed adoption of such a definition. Some comments viewed the definition as unnecessary, while other comments characterized the proposal as an attempt to undercut the outcome of the *Tenneco* case.

III. Amendments Adopted

A. Newly Discovered Crude Oil Amendments

1. *Definition of newly discovered property.* We are adding a definition of a "newly discovered crude oil property" to § 212.79(b) and revising the definition of "newly discovered crude oil" in § 212.79(b) to be based on this new definition. The effect of the definition of "newly discovered crude oil property" will be to exempt a property's production from the ceiling price limitations if no crude oil was "produced and sold in commercial quantities" from that property in calendar year 1978. The overwhelming majority of the comments concerning the definition of "newly discovered crude oil property" favored inclusion of the term "in commercial quantities." We agree that the term should be included in the definition. Its inclusion should result in a similar meaning for newly discovered crude oil under our regulation and under whatever regulations that the IRS ultimately adopts for purposes of the Windfall Profit Tax. Such similarity will lessen the burden on producers and purchasers of complying with our regulations and those of the IRS.

Our review of the comments indicates that production in commercial quantities can be equated with production on a continuing basis since a producer makes the decision to produce on a continuing basis by looking at economic factors. Installation of production facilities, such as a tank battery, a hook-up to a pipeline, or a gathering system, ordinarily indicates a decision by a producer to produce on a continuing basis. Accordingly, in consideration of the comments concerning the meaning of "commercial quantities," the definition of newly discovered crude oil property will provide that a commercial quantity of crude oil is produced and sold from a property if crude oil is produced on a continuing basis from that property. Furthermore, the definition will provide that crude oil will be deemed to be produced on a continuing basis from a property if a producer has begun to install a production facility, such as a tank battery, a hook-up to a pipeline, or a gathering system.[4]

This definition will include as a newly discovered crude oil property any unitized property that is created entirely from properties that qualify as newly discovered crude oil properties. Several comments suggested that such a provision would have the same effect as our proposal on computing imputed newly discovered crude oil production from such properties and would be simpler. After considering this suggested provision, we agree that it has the same effect as our proposal and will reduce the potential for confusion concerning the treatment of such properties.

This definition will be effective January 1, 1981. Several of the comments had requested that it be made effective retroactively to June 1, 1979, the effective date of the existing newly discovered crude oil rule. For such action to be effective, however, we would have to relax the prohibition against recertifying crude oil more than two months after the month of its sale. Sufficient reasons were not presented in the comments to justify the disruption that relaxation of the recertification rule would cause.

2. *Unitized properties.* We are revising the definition of "imputed newly discovered crude oil" in § 212.75(b) to provide a special rule for a unitized property that includes a newly discovered crude oil property from which crude oil was produced and sold for less than 12 months after calendar year 1978. Under this rule the 12-month period currently required for a producer to make the determination as to how much crude oil produced and sold from a unitized property should be imputed newly discovered crude oil would be shortened to the number of days in the months in which crude oil had been produced and sold from a property prior to its inclusion in the unit. We are adopting this special rule in response to the comments that urged a solution

[4] Several comments stated that crude oil production that is incidental to the drilling of a well should not be the basis for disqualifying a property as a newly discovered property. The adopted definition does not make such production the basis for disqualifying a property since a producer cannot make a decision to produce on a continuing basis until a well reaches a depth at which a producer reasonably can expect to produce crude oil in commercial quantities. In this regard, it also should be noted that Ruling 1980–3 discusses the situation in which crude oil is borrowed or purchased from another property and pumped into a well to stimulate production or to prepare the well for operation. The Ruling states that "the recovery of such oil used to 'frac' or 'wash' a well on a property does not in itself constitute production of crude oil from that property". Accordingly, neither the original nor the adopted definition makes the recovery of such crude oil the basis for disqualifying a property.

other than exception relief from OHA for the imputation problem of newly discovered crude oil properties with a production history of less than 12 months. Although this special rule will not eliminate the need for exception relief in all cases, it should reduce very greatly the necessity of seeking exception relief from OHA.

3. *Certification and recordkeeping requirements.* a. *First purchaser.* We are adding a new provision to paragraph (a) of § 212.131 which provides that crude oil produced from a newly discovered crude oil property after December 1980 will not be certified as newly discovered crude oil. Rather it will be certified as having been produced from a newly discovered crude oil property. Under this provision, a producer will be allowed to certify on a one-time basis to each purchaser that a property is eligible for treatment as a newly discovered crude oil property. This provision is consistent with the certification procedures used in relation to crude oil produced from a stripper well property, and does not remove the responsibility for proper certification from the producer.

We have decided not to require producers to inform purchasers of the basis of a property for certification as a newly discovered crude oil property. As noted in many of the comments, such a procedure could be disruptive and would add only marginally to the reliability of certifications.

b. *DOE.* We are not adopting the pre-certification filing and verification requirements that we proposed in the June 23 Notice. Instead, we are adopting modified certification and recordkeeping requirements that eliminate much of the burden to which the comments objected. Specifically, the requirements which we are adopting do not include a pre-certification filing and, thus, will not create the potential conflict (about which many of the comments complained) between the sixty-day review period and the prohibition against recertification more than two months after the month in which crude oil is sold. Rather, a producer may certify crude oil immediately as newly discovered crude oil provided that within a specified time period it files an identification report containing substantially less information than would have been required for the pre-certification filing report. Producers will be required to keep records concerning newly discovered crude oil properties. However, in place of the proposed central verification file, producers will only be required to grant access to these records within 20 working days of a request by DOE. This requirement addresses our need for information promptly in an audit and also the concerns raised in the comments to assembling such information for each newly discovered crude oil property regardless of whether that property is ever audited.

Accordingly, § 212.79 is being revised by the addition of a new paragraph (c) which will require a producer to identify each newly discovered crude oil property and to state briefly the basis for classifying each property as a newly discovered crude oil property. This report must include: (1) The type of legal instrument which establishes the property and its effective date; (2) the date on which crude oil first was produced and sold from a property; (3) the date on which crude oil first was produced and sold in commercial quantities from a property; (4) where appropriate, evidence of reservoir designation by the appropriate governmental authority and the basis for the designation; (5) where appropriate, the amount of crude oil to be certified as imputed newly discovered crude oil; and (6) the location of the producer's main place of business. The 34 major refiners will file these reports at the DOE Office of Special Counsel in Dallas, Texas, while all other producers will file at the ERA Office of Enforcement in Washington, D.C. This information must be filed by February 1, 1981 or the sixtieth day after newly discovered crude oil is first produced and sold from a property, whichever date is later.

We also are revising § 212.128 by the addition of a new paragraph (d) that will require a producer to prepare and maintain with respect to each newly discovered crude oil property (or unitized property for which newly discovered crude oil is imputed) records that contain information verifying its determination. The records must be sufficient to provide a detailed description of the property or the unitized property, including (1) the lease name, the operating number, the state-supplied identification number, and all other information that uniquely describes the property or the unitized property; (2) the exact geographical location of the property or the unitized property; (3) a copy of the original lease or farm-out assignments and copies of all amendments, restrictions, extensions and revisions of the original lease or farm-out assignment or any other applicable legal instrument concerning the right to produce; (4) where either a drilling unit or any other unit has been formed, a copy of the unitization agreement; (5) where the property or the unitized property has been defined as part of a larger lease tract, the area limits of the property and supporting documentation for such a definition; (6) where the property is a reservior that is to be certified as a newly discovered crude oil property, a description of the reservoir designation by the appropriate governmental regulatory authority and the basis upon which the reservoir qualifies together with supporting documentation; (7) where applicable on either a depth or a formation basis, the vertical or geological limits of a property or a unitized property and supporting documentation for such a definition; and (8) where newly discovered crude oil is imputed from a unitized property, a description of that part of the unitized property that qualifies for such treatment and the basis upon which it qualifies together with supporting documentation.

The records also must contain information concerning the production history of the property or the unitized property, including: (1) The date drilling or reworking of the controlling initial well was commenced; (2) a record of the drilling and the date the controlling initial well was completed or recompleted; (3) the date of the first production and sale of crude from the property or unitized property; (4) the beginning date of installation of production facilities, such as a tank battery, a hook-up to a pipeline, or a gathering system; (5) the date of the first production and sale of crude oil in commercial quantities from the property or the unitized property; (6) the name of the initial first purchaser of crude oil produced and sold from the property or the unitized property; (7) the name of the initial first purchaser of crude oil produced and sold in commercial quantities form the property or the unitized property; and (8) where the property or the unitized property produced crude oil before but not during calendar year 1978 and for which crude oil production was reestablished after December 31, 1978, the date of the last production before calendar year 1978.

We are not requiring these records to be maintained in a single location. However, at a minimum, access to such records must be granted to DOE auditors within 20 working days of the date of a request by DOE. These records must be made available at a single location at the time of the audit. If a producer fails to grant access to such records within 20 working days of a request by DOE, the crude oil produced from the property or unitized property to which the records relate will be subject to the ceiling price limitations set forth

in 10 CFR Part 212, Subpart D, during any month that the producer does not comply with the request. Any extension of time required to assemble records will be handled on a case-by-case basis.

B. Heavy Crude Oil Amendments

1. *Unitized properties.* We are amending § 212.75 to provide for imputed heavy crude oil production from a unitized property that was formed partly from heavy crude oil properties. The amount of imputed heavy crude oil from such properties will be determined in the same manner as imputed newly discovered crude oil. In addition, we are revising the definition of a heavy crude oil property to include unitized properties which are formed entirely from heavy crude oil properties. Our reasons for this revision are the same as for the similar provision in the definition of a newly discovered crude oil property.

2. *Certification requirements.* We are adding a new provision to § 212.131(a) to require a producer to certify to a purchaser that crude oil was produced from a heavy crude oil property. This provision is identical to the provision that we are adopting today for the certification of newly discovered crude oil properties. Imputed heavy crude oil will be certified by volume to the first purchaser.

3. *Recordkeeping requirements.* We also are amending § 212.128 by adding a paragraph (e) to require producers of heavy crude oil or imputed heavy crude oil to maintain certain records. Specifically, a producer of heavy crude oil or imputed heavy crude oil will be required to maintain records which set forth the basis on which it determined the heavy crude oil status of any property or unitized property from which it sells crude oil certified as heavy crude oil or imputed heavy crude oil. These records will document the weighted average gravity of the crude oil produced and sold from a particular property during the first month prior to July 1979 in which crude oil was produced and sold from that property. Additionally, with respect to each heavy crude oil property into which a diluent has been injected, a producer will be required to maintain records which set forth the amounts of diluent injected and the dates of injection.

C. Market Level New Crude Oil Amendments

1. *Certification requirements.* We are revising § 212.131(a) to include market level new crude oil as an express category of crude oil to be certified. In those cases where § 212.131(a) permits a one-time certification for a property, we have decided not to require a producer to certify on a one-time basis the market level factor used to determine the amount of market level new crude oil for each month in the period January 1980 through September 1981. As noted in several comments, such a requirement is unnecessary since a purchaser can determine the market level factor by looking at the definition of market level new crude oil set forth in § 212.72. Similar treatment will be provided for unitized properties.

2. *Recordkeeping requirements.* We also are amending § 212.128 to require producers to maintain records with respect to crude oil certified as market level new crude oil. These records will set forth the volume of crude oil so certified for each month and the names of the purchasers of such oil and the volumes that they purchased.

D. Conforming Amendments

In connection with the previously discussed changes to the price rules for newly discovered crude oil, heavy crude oil and market level new crude oil, we are making conforming amendments to the Entitlements Program (10 CFR 211.67) and the certification rule for resellers (10 CFR 212.131(b)(1)). Specifically, subparagraphs (b)(2), (g)(2) and (i)(4) of § 211.67 will be amended to include newly discovered crude oil, heavy crude oil and market level new crude oil among the express categories of crude oil that receive market prices.[5] This change will have no effect on the actual operation of the Entitlements Program.

With respect to certifications by producers, paragraph (a) of § 212.131 will be revised to provide for the certification of newly discovered crude oil properties, heavy crude oil properties, imputed heavy crude oil and market level new crude oil. The addition of these provisions to the existing paragraph (a) of § 212.131 would increase its length and number of repetitious phrases and thus make it more cumbersome. Accordingly, we have rewritten the entire paragraph so as to add these provisions, to clarify its existing provisions, and to delete unnecessary phrases. This revised paragraph (a) does not substantively alter any currently effective provision of paragraph (a) of § 212.131, except as expressly discussed in this Notice. We specifically have added paragraph (a)(6) in order to consolidate in one provision the requirements with respect to the timing of certifications by producers.

With respect to certifications by resellers, subparagraph (b)(1) of § 212.131 will be amended to require express certifications of crude oil as newly discovered crude oil, heavy crude oil or market level new crude oil. This replaces the current requirement that such crude oil be certified as crude oil the first sale of which is exempt from the ceiling price limitations of Subpart D of Part 212. This change is consistent with a reseller's obligation to preserve the integrity of crude oil certifications.

E. Definition of "Produced and Sold"

We are adopting a definition of "produced and sold" to be added to 10 CFR 212.72. This definition of "produced and sold" will provide that crude oil is produced and sold from a property when the crude oil is first sold, transferred, or otherwise disposed of for value or benefit by the producer or the royalty owner. Crude oil will be deemed to be produced and sold when the produced crude oil leaves the property or is disposed of or consumed on the property, whichever occurs first. Thus, the term "produced and sold" will include all dispositions of produced oil for which value or benefit is directly or indirectly received, including the disposal or consumption of crude oil in any manner on the property from which it is produced. As such, this definition constitutes a regulatory definition of what DOE and its predecessor agencies have interpreted the term "produced and sold" to mean. *See, e.g., Phillips Petroleum Co.*, Interpretation 1977–12 (42 FR 31148, June 20, 1977).

The effective date for this definition is January 1, 1981. Thus, contrary to the opinion expressed in several comments, it will have no effect on the issues decided in the *Tenneco* case.

IV. Procedural Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental

[5] In this regard, we note that crude oil produced from a marginal property (as defined in 10 CFR 212.72) must be certified as either lower-tier or upper-tier crude oil, except to the extent that it qualifies as market level new crude oil.

assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044

ERA has decided that the preparation of a regulatory analysis under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978), is not required for this rule. A detailed explanation of the basis for this decision may be found in the June 23 Notice.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below, effective January 1, 1981.

Issued in Washington, D.C., November 18, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

1. Section 211.67 is amended by revising paragraphs (b)(2), (g)(2), and (i)(4) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by refiners.* * * *

(2) To caluclate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the the definition of national domestic crude oil supply ratio in § 211.62, paragraph (b)(1) of this section, and paragraph (c) of this section shall be calculated as follows: (i) Each barrel of old oil shall be equal to one barrel of deemed old oil; (ii) Each barrel of upper tier crude oil (except ANS upper tier crude oil) shall constitute that fraction of a barrel of deemed old oil, the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), heavy crude oil (as determined pursuant to § 212.59), newly discovered crude oil (as determined pursuant to § 212.79), market level new crude oil (as determined pursuant to § 212.74), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less such weighted average cost per barrel to refiners of upper tier crude oil (except ANS upper tier crude oil), and the denominator of which is the entitlement price for that month; (iii) Each barrel of ANS upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), heavy crude oil (as determined pursuant to § 212.59), newly discovered crude oil (as determined pursuant to § 212.79), market level new crude oil (as determined pursuant to § 212.74), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less such weighted average cost per barrel to refiners of ANS upper tier crude oil, and the denominator of which is the entitlement price for that month.

(g) *Exchanges of crude oil.* * * *

(2) Subject to the provisions of paragraph (g)(3) of this section, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), heavy crude oil (as determined pursuant to § 212.59), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), newly discovered crude oil (as determined pursuant to § 212.79) market level new crude oil (as determined pursuant to § 212.74), or any other domestic crude oil the first sale of which is exempt from Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transactions is sold to another firm.

* * * * *

(i) *Issuance and transfer of entitlements.* * * *

(4) The price at which entitlements shall be sold and purchased shall be fixed by the ERA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), heavy crude oil (as determined pursuant to § 212.59), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), newly discovered crude oil (as determined pursuant to § 212.79), market level new crude oil (as determined pursuant to § 212.74), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, such costs to be equivalent to the delivered costs to the refinery.

* * * * *

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

2. Section 212.59 is amended by adding a new paragraph (h) and by revising paragraphs (b), (c) and (d) to read as follows:

§ 212.59 Heavy crude oil.

* * * * *

(b) Heavy crude oil means all crude oil produced from any property during a period when the property qualified as a heavy crude oil property.

(c) For the period August 17, 1979 through December 20, 1979, heavy crude oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 16.0° API or less, corrected to 60° Fahrenheit.

(d) On and after December 21, 1979, heavy crude oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 20.0° API or less, corrected to 60° Fahrenheit.

* * * * *

(h) Any unitized property that includes only properties that prior to inclusion within the unit qualified as heavy crude oil properties shall qualify as a heavy crude oil property.

* * * * *

3. Section 212.72 is amended to add a definition of "Produced and sold" to read as follows:

§ 212.72 Definitions.

* * * * *

"Produced and sold" means, for purposes of subparts C and D of this part, the production and first sale, transfer of custody (including transfers between affiliated entities), or any other disposition for which value or benefit is directly or indirectly received by the producer or royalty owner, including the disposal or consumption of crude oil in any manner on the property from which it is produced. Crude oil is deemed to be produced and sold at the time that the produced crude oil leaves the property or is disposed of or consumed on the property, whichever occurs first.

* * * * *

4. Section 212.75(b) is amended by revising paragraph (b) to delete the definition of "Newly discovered crude oil property," to revise the definition of "Imputed newly discovered crude oil," and to add a definition of "Imputed heavy crude oil," to read as follows:

§ 212.75 Crude oil produced and sold from unitized properties.

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"Imputed heavy crude oil" means, with respect to a unitized property for which a unit base production control level was established after August 16, 1979, in a particular month, either (1) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute that unitized property, multiplied by the total number of barrels of crude oil produced during the 12-month period immediately preceding the establishment of a unit base production control level for that unitized property from all properties that consitute the unitized property which qualified as heavy oil properties prior to inclusion within the unit, divided by the sum of (i) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties other than heavy crude oil properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced during that period from all crude oil properties that constitute the unitized property which qualified as heavy crude oil properties prior to inclusion within the unit, or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil produced during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all properties that constitute the unitized property which qualified as heavy crude oil properties prior to inclusion within the unit, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater. For purposes of this definition, the 12-month period prior to the inclusion of a heavy crude oil property within a unit may be reduced to the number of days in the months in that period in which heavy crude oil was produced and sold from that property.

"Imputed newly discovered crude oil" means with respect to a unitized property for which a unit base production control level was established after January 1, 1979, in a particular month, either (1) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute the unitized property, multiplied by the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the sum of (i) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties other than newly discovered crude oil properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced and sold during that period from all newly discovered crude oil properties that constitute the unitized property; or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater. For purposes of this definition, the 12-month period prior to the inclusion of a newly discovered crude oil property within a unit may be reduced to the number of days in the months in that period in which newly discovered crude oil was produced and sold from that property.

* * * * *

5. Section 212.79 is amended by revising paragraph (b) to add the definition of "Newly discovered crude oil property," and to revise the definition of "Newly discovered crude oil," and by adding a new paragraph (c), to read as follows:

§ 212.79 Newly discovered crude oil ceiling price rule.

* * * * *

(b) *Definitions.* For purposes of this section—

"New lease" means any lease entered into on or after January 1, 1979, of an area from which no crude oil was produced and sold in commercial quantities in calendar year 1978.

"Newly discovered crude oil" means: (1) Prior to January 1981, domestic crude oil which is (i) produced from a new lease on the Outer Continental Shelf, or (ii) produced (other than from the Outer Continental Shelf) from a property from which no crude oil was produced in calendar year 1978; or (2) after December 1980, domestic crude oil which is produced from a newly discovered crude oil property.

"Newly discovered crude oil property" means: (1) A new lease on the Outer Continental Shelf; or (2) a property (not on the Outer Continental Shelf) from which no crude oil was produced and sold in commercial quantities in calendar year 1978; or (3) any unitized property that includes only properties that prior to inclusion within the unit qualified as newly discovered crude oil properties. For purposes of this definition, crude oil is produced and sold in commercial quantities from a property if crude oil is produced from that property on a continuing basis. Crude oil shall be deemed to be produced on a continuing basis from a property if installation of a production facility for the crude oil produced from that property has begun.

"Outer Continental Shelf" means Outer Continental Shelf as defined under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(c) *Identification of newly discovered crude oil properties.*—(1) *Filing requirements.* By February 1, 1981 or 60 days after newly discovered crude oil is first produced and sold from a property, whichever is later, a producer must prepare and file with the appropriate DOE office a report identifying each property from which it has produced and sold newly discovered crude oil and the basis on which that property qualifies as a newly discovered crude oil property or on which imputed newly discovered crude oil is computed. These

reports must include the following information:

(i) The type of legal instrument which establishes the property and its effective date;

(ii) The date on which crude oil first was produced and sold from the property;

(iii) The date on which crude oil first was produced and sold in commercial quantities from the property;

(iv) Where the property is a reservoir that is to be or has been designated as a newly discovered crude oil property, evidence of the reservoir designation by the appropriate governmental authority and the basis upon which the reservoir qualifies;

(v) Where the property is an unitized property, the amount of production that will be certified as imputed newly discovered crude oil and the name of the unitized property; and

(vi) The location of the producer's main place of business.

(2) *Failure to file.* Notwithstanding the provisions of this § 212.79 and of § 212.131, a producer may not obtain prices exempt from the ceiling price limitations of Subpart D of this part for crude oil produced and sold from a newly discovered crude oil property or from any unitized property from which newly discovered crude oil is imputed in any month after January 1981 during which the report required by this paragraph (c) has not been filed with the DOE.

6. Section 212.128 is amended to revise paragraph (a) and to add new paragraphs (d) and (e) to read as follows:

§ 212.128 Recordkeeping.

(a) *Producers of crude oil.* Each producer of crude oil shall, with respect to each property, prepare and maintain at its principal place of business, (1) a reasonable description of the property concerned, (2) a statement of the property's base production control level and how determined, and (3) documentation of the highest posted prices used to determine any sales of upper and lower tier crude oil from the property, specifying the reference field and posting and the basis for its selection. Each producer of crude oil shall, with respect to any stripper well property, prepare and maintain at its principal place of business, records on a well-by-well basis, of production, including records to indicate each time that production was significantly curtailed by reason of mechanical failure, or other disruption in production, for the period during which the property qualified as a stripper well lease. Each producer of crude oil shall, with respect to any property from which it sells market level new crude oil, prepare and maintain at its principal place of business records as to amounts of market level new crude oil sold from that property during any particular month and the names and addresses of each purchaser of such crude oil and the amounts of such crude oil that each purchased.

* * * * *

(d) *Producers of newly discovered crude oil*—(1) *Records.* Each producer of crude oil shall, with respect to each newly discovered crude oil property or each unitized property from which newly discovered crude oil is imputed, prepare and maintain records that provide a reasonable description of the property concerned and the basis on which it determined the property to be a newly discovered crude oil property or eligible to have newly discovered crude oil imputed. These records should include the following information:

(i) A detailed description of the property or the unitized property, including—

(A) The lease name, the operating number, the state-supplied identification number, and all other information that uniquely describes the property or the unitized property;

(B) The exact geographical location of the property or the unitized property;

(C) A copy of the original lease or farm-out assignment and copies of all amendments, restrictions, extensions and revisions of the original lease or farm-out assignment or any other applicable legal instrument concerning the right to produce;

(D) Where either a drilling unit or any other unit has been formed, a copy of the unitization agreement;

(E) Where the property or the unitized property has been defined as a part of a larger lease tract, the area limits of the property and supporting documentation for such a definition;

(F) Where the property is a reservoir that is to be or has been certified as a newly discovered crude oil property, a description of the reservoir designation by the appropriate governmental regulatory authority and the basis upon which the reservoir qualifies together with supporting documentation;

(G) Where applicable on either a depth or a formation basis, the vertical or geological limits of the property or the unitized property and supporting documentation for such a definition;

(H) Where newly discovered crude oil is imputed from a unitized property, a description of that part of the unitized property that qualifies for such treatment and the basis on which it qualifies together with supporting documentation; and

(ii) The records of production from the property or the unitized property, including—

(A) The date drilling or reworking of the controlling initial well was commenced;

(B) A record of the drilling and the date the controlling initial well was completed or recompleted;

(C) The date of the first production and sale of crude oil from the property;

(D) The date of installation of production facilities (such as a tank battery, a hook-up to a pipeline or a gathering system) for the property;

(E) The date of the first production and sale of crude oil in commercial quantities from the property;

(F) The name of the initial first purchaser of crude oil from the property;

(G) The name of the initial first purchaser of crude oil produced in commercial quantities from the property or imputed newly discovered crude oil from the unitized property;

(H) Where the property or the unitized property produced crude oil before but not during calendar year 1978 and for which crude oil production was reestablished after December 31, 1978, the date of the last production before calendar year 1978.

(2) *Failure to grant access to records.* Notwithstanding the provisions of § 212.79 and of § 212.131, a producer may not obtain prices exempt from the ceiling price limitations of Subpart D of this part, for crude oil produced and sold from a newly discovered crude oil property or from a unitized property from which newly discovered crude oil is imputed, during any month that it fails to provide DOE with access at a single location to records required by this paragraph (d) within 20 working days of the date of receipt of a request by DOE. DOE may permit a producer more than 20 working days in which to assemble and provide access to the records required by this paragraph (d).

(e) *Producers of heavy crude oil.* Each producer of heavy crude oil or imputed heavy crude oil shall, with respect to each property from which it produces heavy crude oil or imputed heavy crude oil, prepare and maintain at its principal place of business, (1) a reasonable description of the property concerned and (2) the basis on which it determined the property to be a heavy crude oil property or eligible to have heavy crude oil imputed. Each producer of heavy crude oil which injects a diluent into a particular heavy crude oil property shall prepare and maintain records as to the amounts of diluent injected into that

property and the dates of any such injections.

7. Section 212.131 is amended to revise existing subparagraphs (a)(2)(i) and (ii), (a)(3)(i) and (ii), (a)(6) and (b)(1); to add new paragraphs (a)(3) and (a)(4); and to renumber existing paragraphs (a)(3), (a)(4) and (a)(5), to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a)(1) *Stripper well properties.* With respect to each stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced from that property:

(i) That the property concerned has qualified as a stripper well property; and

(ii) The average daily production per well for the 12-month period during which the property qualified as a stripper well property.

(2) *Newly discovered crude oil properties.* With respect to each newly discovered crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced from that property that the property concerned has qualified as a newly discovered crude oil property.

(3) *Heavy crude oil properties.* With respect to each heavy crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced from that property that the property concerned has qualified as a heavy crude oil property.

(4) *Other properties.* (i) With respect to each sale of crude oil from a property (other than a stripper well property, a newly discovered crude oil property, or a heavy crude oil property), the producer shall certify in writing to each purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower-tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this Part);

(D) Incremental tertiary crude oil as determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78;

(F) Market level new crude oil as determined pursuant to § 212.74;

(G) Imputed stripper well crude oil determined pursuant to § 212.75(b);

(H) Imputed newly discovered crude oil determined pursuant to § 212.75(b);

(I) Imputed heavy crude oil determined pursuant to § 212.75(b); and

(J) Other domestic crude oils, the first sale of which is exempt from Part 212.

(ii) With respect to each property which has not been certified to a purchaser as a stripper well property, a newly discovered crude oil property, or a heavy crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property:

(A) The highest posted price at 6 a.m., local time, May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; and

(B) The highest posted price on September 30, 1975 for transactions in that particular grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted.

(a)(5) *One-Time certifications.* (i) Except as provided for in paragraphs (a)(5) (ii) and (iii) of this section, with respect to any property (except a unitized property) from which crude oil is sold to only one purchaser, the requirements of paragraph (a)(4)(i) of this section may be complied with by a one-time written certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, or upon production and sale of old crude oil during the six-month period ending March 31, 1979, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76.

(ii) Except as provided for in paragraph (a)(5)(iii) of this section, with respect to any unitized property for which the producer has determined a unit base production control level and from which crude oil is sold to only one purchaser, the requirements of paragraph (a)(4)(i) of this section may be complied with by a one-time written certification to the purchaser of—

(1) The monthly unit base production control level, determined pursuant to § 212.75(b);

(2) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) The number of barrels of crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this part), if any;

(4) The number of barrels of imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b);

(5) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(6) The number of barrels of imputed heavy crude oil, if any, determined pursuant to § 212.75(b).

(iii) Notwithstanding the provisions of paragraphs (a)(5)(i) and (ii) of this section, a producer shall certify in writing to each purchaser: (A) In each sale the amounts and gravity of California lower tier crude oil and California upper tier crude oil; (B) in each sale the amount of crude oil that is being sold as teritiary incentive crude oil pursuant to § 212.78(a)(2) and shall identify whether this amount would have been lower-tier crude oil or upper-tier crude oil except for its certification as tertiary incentive crude oil; and (C) once, if tertiary incremental crude oil may be sold from a property pursuant to § 212.78(a)(1), the amounts of non-incremental crude oil production from that property for each month, as determined pursuant to § 212.78.

(iv) With respect to U.S.-owned crude oil sold pursuant to the Naval Petroleum reserves Production Act of 1976 (Pub. L. 94-258), the producer may comply with the requirements of paragraph (a)(4)(i) by certifying in writing once to each purchaser of such crude oil produced and sold from a property that the first sale of such crude oil from that property is exempt from the provisions of this Part.

(6) *Time of certifications.* Certifications required or authorized by this paragraph (a) to be made once shall be made within the consecutive two-month period immediately following the first month that the oil in question is produced and sold. Certifications required by this paragraph (a) to be made with respect to each sale shall be made within the consecutive two-month period immediately following the month in which that sale is made. After the

close of the two-month period immediately succeeding the month in which crude oil is produced and sold, no certification, other than a certification for lower-tier ("old") crude oil, shall be effective with respect to the purchaser of that crude oil, except where such certification explicitly is required or permitted by DOE order, interpretation or ruling.

(b)(1) *Reseller certification.* Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 212.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser (i) that the price charged for the domestic crude oil is not greater than the maximum price permitted pursuant to this part and (ii) the respective volumes of and respective per barrel prices for the—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this part);

(D) Stripper well crude oil;

(E) Incremental tertiary crude oil;

(F) Tertiary incentive crude oil;

(G) Newly discovered crude oil;

(H) Market Level new crude oil;

(I) Heavy crude oil; and

(J) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold.

(2) *Time of certifications.* Each seller of domestic crude oil, other than a producer of domestic crude oil, shall make the certification required by this paragraph as soon as practicable after receipt of the required certifications from its sellers, but in no event later than 30 days following such receipt. However, if the domestic crude oil is not sold until after the expiration of the thirty-day period, the certification required by this paragraph shall be made within ten days following the sale of the domestic crude oil.

(3) *Actual volumes.* All certifications required by this paragraph shall relate only to the actual volumes of crude oil included in any mixed blend of crude oil and other refined petroleum products and residual fuel oil.

(c) *Certification required for purchase or sale of crude oil.* No firm may sell domestic crude oil unless it provides the certification required by this section. No firm may knowingly purchase domestic crude oil for which there is no certification as required by this section; *Provided, however,* That the provisions of this paragraph do not apply to the sale of domestic crude oil to a firm under circumstances of economic or other coercion in which the buyer, because of its need for crude oil had no reasonable alternative but to purchase the domestic crude oil for which there is no certification, and such firm promptly reports the purchase to the Department of Energy for investigation.

(d) *Form of certification.* All certifications required by this section shall be in writing, either upon an invoice or billing or by separate instrument, and shall be effective only when delivered to and received by the purchaser of domestic crude oil.

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federal register

Tuesday
November 25, 1980

Part XIII

Department of Energy

Protection of Human Subjects; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 745

Protection of Human Subjects

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: Executive Order 12044 sets forth a program of regulatory reform to be followed by all executive departments. One element of that program is periodic review of existing regulations. The Department of Energy is committed to review all of its existing regulations within five years, on schedule set forth in the **Federal Register** for May 8, 1980, 45 FR 30448.

As part of that commitment, the Department has reexmained the regulations contained in 10 CFR Part 745. These regulations deal with the protection of human subjects in research activities supported by the Department. In this notice, we are proposing regulations that will supersede the existing requirements. These proposed regulations are intended substantially to duplicate the policies and procedures proposed by the Department of Health and Human Services on August 14, 1979 (44 FR 47688). The primary responsibility for adequate review and approval to protect human subjects of research activities sponsored by the Department of Energy is placed on the institution that receives, or is accountable to the Department, for the funds awarded.

DATE: Written comments on the proposed rules are requested and should be received on or before November 29, 1980, if they are to be given full consideration.

ADDRESS: Written comments or requests for additional information should be sent to: Joseph R. Blair, M.D., Human Health and Assessments Division, EV-32 (GTN), Office of Health and Environment Research, U.S. Department of Energy, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blair, M.D., (301) 353-5355.

SUPPLEMENTARY INFORMATION: The proposed regulation for the protection of human research subjects continues the major thrust of DOE's existing regulations by providing protection for human subjects of research conducted or supported by DOE, and requiring Institutional Review Board (IRB) review and approval of DOE-supported research involving human subjects. However, the proposed regulation is designed to update and improve upon the existing DOE regulation by developing basic elements of informed consent that are a necessary prerequisite to research subject participation, and by requiring that IRB membership consist of individuals of diverse backgrounds, including at least one non-scientist such as a lawyer or a clergyman.

The proposed regulation will allow institutions with an approval general assurance on file with the Department of Health and Human Services (DHHS) to comply with DOE's regulations by submitting a document to DOE stating that they have an approved general assurance on file with DHHS.

The Department has reviewed this proposed regulation in accordance with Executive Order 12044 and DOE Order 2030.1. It was determined that this proposed regulation is not a significant regulation, nor will it have a major economic impact. Thus, the preparation of a Regulation Analysis is not required. The Department also has determined that the proposed regulation clearly will not have a significant impact on the human environment so that no environmental assessment or environmental impact statement is required.

Existing Part 745 of Chapter III, Title 10, of the Code of Federal Regulations is proposed to be superseded by the following rule, as set forth below.

Issued in Washington, D.C., November 12, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

PART 745—PROTECTION OF HUMAN SUBJECTS

Sec.

Authority: Sec. 105(a) Energy Reorganization Act of 1974. Pub. L. 93-433.

§ 745.1 Applicability.

(a) The regulations in this part are applicable to all Department of Energy (DOE) agreements including, but not limited to, grants and contracts supporting research, development, and related activities within the United States and its territories in which human subjects are involved.

(b) For agreements supporting activities outside the United States and its territories in which human subjects are involved, the requirements of this part shall apply to the maximum extent practicable as determined by the Secretary on a case-by-case basis, taking into account the relevant laws and practices of the foreign nation in which the activity will be conducted.

(c) The Secretary may, from time-to-time, determine in advance whether specific programs, methods, or procedures to which this part is applicable place subjects at risk, as defined in § 745.3(b). Such determinations will be published as notices in the **Federal Register** and will be included in an appendix to this part.

§ 745.2 Policy.

(a) Safeguarding the rights and welfare of human subjects in activities supported under DOE agreements is primarily the responsibility of the institution which receives, or is accountable to DOE for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of DOE that no activity involving human subjects within the United States and its territories supported by DOE agreements shall be undertaken unless an Institutional Review Board (IRB) has reviewed and approved such activity, and the institution has submitted to DOE certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether these subjects will be placed at risk, and, if risk is involved, whether:

(1) The risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a

decision to allow the subject to accept these risks;

(2) The rights and welfare of any such subjects will be adequately protected;

(3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part, and

(4) The conduct of the activity will be reviewed at timely intervals.

(c) No agreement involving human subjects shall be awarded to an individual unless he is affiliated with or sponsored by an institution which can and does assume responsibility for the subjects involved.

§ 745.3 Defintitions.

(a) "Institution" means any public or private institution or agency (including Federal, State, and local government agencies).

(b) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service.

(c) "Informed consent" means the knowing consent of an individual or his legally authorized representative so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic element of information necessary to such consent include:

(1) A fair explanation of the procedures to be followed and their purposes, including identification of any procedures which are experimental;

(2) A description of any attendant discomforts and risks reasonably to be expected;

(3) A description of any benefits reasonably to be expected;

(4) A disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) An offer to answer any inquiries concerning the procedures; and

(6) An instruction that the person is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject.

(d) "DOE" means the Department of Energy.

(e) "Secretary" means the Secretary of Energy or any other officer or employee of DOE to whom authority has been delegated.

(f) "Agreement" means a grant, contract, cooperative agreement, or any other instrument under which DOE provides funds or other resources for projects or efforts involving human subjects.

(g) "DHHS" means the Department of Health and Human Services.

(h) "Approved assurance" means a document that fulfills the requirements of this part and is approved by the Secretary of Energy or the Secretary of Health and Human Services.

(i) "Human subject" means an individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the person, or (2) identifiable information.

(j) "Certification" means the official institutional certification to DOE in accordance with the requirements of this part that a project or activity involving human subjects at risk has been reviewed and approved by the institution in accordance with the "approved assurance" on file at DOE or DHHS.

(k) "Legally authorized representative" means an individual or judicial, or other body authorized under applicable law to consent on behalf of a prospective subject to such subject's particpation in the particular activity or procedure.

§ 745.4 Submission of assurances.

(a) Except as provided in paragraph (b) of this section, recipients or prospective recipients of DOE support under any agreement involving human subjects shall provide written assurance acceptable to the Secretary that they will comply with DOE requirements as set forth in this part, including the requirement that:

(1) A statement of compliance with DOE requirements for initial and continuing Institutional Review Board review of the supported activities; and

(2) A set of implementing guidelines, including identification of the Board and a description of its review procedures; or in the case of special assurance concerned with single activities or projects; a report of initial findings of the Board and of its proposed continuing review procedures.

(b) Recipients or prospective recipients of DOE support under any agreement involving human subjects who have on file with DHHS an approved general assurance pursuant to 45 CFR Part 46 will be considered to have an approved general assurance on file with DOE. Those recipients meeting this requirement shall, in lieu of the requirements of paragraph (a) of this section, submit a document to DOE stating that they presently have an approved general assurance on file with DHHS.

(c) Such assurance under paragraph (a) of this section or document under paragraph (b) of this section shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this part, and shall be filed in such form and manner as the Secretary may require.

§ 745.5 Types of assurances.

(a) General assurance. A general assurance is a comprehensive plan for implementation procedures applicable to all DOE-supported activities conducted by an institution, regardless of the number, location, or types of its components or field activities. General assurances will be required from institutions having a significant number of concurrent DOE-supported projects or activities involving human subjects.

(b) Special assurances. A special assurance describes the review and implementation procedures applicable to and reports the findings of the Institutional Review Board on an activity or project. A special assurance will not be solicited or accepted from an institution which has on file with DOE or DHHS an approved general assurance.

(c) No individual may receive Department support for research covered by these regulations unless he or she is affiliated with or sponsored by an institution which assumes responsibility for the research under an assurance satisfying the requirements of this part.

§ 745.6 Minimum requirements for general assurances.

General assurances shall be submitted in such form and manner as the Secretary may require. In order to satisfy the requirements of these regulations, a general assurance shall provide specifically for the following:

(a) A statement of principles which will govern the institution in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes, declarations, or statements of basic ethical principles formulated by the institution itself. It is to be understood that no such principles supersede DOE policy or applicable law.

(b) An Institutional Review Board or Board structure which will conduct initial and continuing reviews in accordance with the policy outlined in

§ 745.2. Such a Board or Board structure shall meet the following requirements:

(1) The Board must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and sufficient diversity of the members as to racial and cultural backgrounds, to promote respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must, therefore, include persons knowledgeable in these areas. If a Board regularly reviews research that has an impact on a vulnerable category of subjects, then the Board should have one or more individuals who are primarily concerned with the welfare of these subjects.

(2) The Board members shall be identified to DOE by name; earned degrees, if any; position or occupation; representative capacity; and by other pertinent indications of experience, such as certification, licenses, etc. sufficient to describe each member's chief anticipated contributions to the Board's deliberations. Any employment or other relationship between each member and the institution shall be identified, i.e., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant. Changes in the Board membership shall be reported to DOE in such form and at such times as the Secretary may require.

(3) Each Board shall include at least one licensed physician, one scientist, and at least one individual whose primary concerns are in a nonscientific area (e.g., a lawyer or a member of the clergy).

(4) No member of a Board shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest, except to provide information requested by the Board.

(5) No Board shall consist entirely of persons who are officers, employees, or agents of, or are otherwise associated with the institution, apart from their membership on the Board.

(6) No Board shall consist entirely of members of a single professional group, nor entirely of men, nor entirely of women.

(c) Procedures which the Board will follow:

(1) Conducting its initial and continuing review of research and reporting its findings and actions to the investigator and the institution, (i) for determining which projects require review more often than annually and which projects need verification from sources other than the researchers that no material changes have occurred since initial Board review, (ii) to insure prompt reporting to the Board of proposed changes in an activity and of unanticpated problems involving risks to subjects or others, and (iii) to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope labelled drugs, or medical devices, are promptly reported to the Department. These procedures may be promulgated by the institution or by the Board, if this authority is delegated to it by the institution.

(2) Board review of proposed research at convened meetings at which a majority of the members of the Board are present, including at least one member whose primary concerns are in nonscientific areas, except when an approved expedited review procedure is utilized. In order for the research to be approved, it must receive the approval of a majority of those members present at the meeting. The Board shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure Board approval of the activity. If the Board decided to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(3) Maintenance of appropriate records, including information on Board members required by paragraph (c)(2) of this section, copies of proposals reviewed and approved, sample consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities. These records must be accessible for inspection by DOE representatives and retained for at least five years after completion of the research, or such longer period as may be specified by program requirements. Minutes must be in sufficient detail to show attendance at Board meetings, the number of members voting for and against these actions, and the basis for the actions (including a written summary of the discussion of substantive issues and their resolution).

(4) Provision for meeting space and sufficient staff to support the Board's review and recordkeeping duties.

(5) The quorum of the Board shall be defined, but may in no event be less than a majority of the total membership duly convened to carry out the Board's responsibilities under the terms of the assurance.

(d) Procedures which the institution will follow to maintain an active and effective Board and to implement its recommendations.

§ 745.7 Minimum requirments for special assurances.

In order to satisfy the requirements of these regulations, an acceptable special assurance shall:

(a) Identify the specific agreement involved by its full title and by the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity.

(b) Include a statement, executed by an appropriate institutional official, indicating that the institution has established an Institutional Review Board satisfying the requirements of § 745.6(b).

(c) Describe the makeup of the Board and the training, experience, and background of its members as required by § 745.6(b)(2).

(d) Describe the risks to subjects that the Board recognizes as inherent in the activity, and if subjects will be placed at risk, justify its decision that these risks are so outweighed by the sum of the benefit to the subject, and the importance of the knowledge to be gained, as to warrant the Board's decision to permit the subject to accept these risks.

(e) If subjects will be placed at risk, describe the informed consent procedures to be used, and attach samples of the documentation to be required under § 745.10.

(f) Describe procedures which the Board will follow to insure prompt reporting to the Board of proposed changes in the activity, and of any unanticipated problems involving risks to subjects or others, to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to DOE.

(g) Indicate at what time intervals the Board will meet to provide for continuing review. Such review must occur no less than annually.

(h) Be signed by the individual members of the Board and be endorsed by an appropriate institutional official.

§ 745.8 Evaluation and disposition of assurances.

(a) All assurances submitted in accordance with §§ 745.6 and 745.7 shall be evaluated by the Secretary through such officers and employees of DOE as he determines to be appropriate. The Secretary's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed Institutional Review Board in light of the anticipated scope of the applicant institution's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the insitution.

(b) On the basis of his evaluation of an assurance, pursuant to paragraph (a) of this section, the Secretary shall approve or disapprove the assurance, or enter into negotiations to develop approvable assurance. With respect to approved assurances, the Secretary may determine the period during which any particular assurance or class of assurances shall remain effective or otherwise condition or restrict his approval. With respect to negotiations, the Secretary may, pending completion of negotiations for a general assurance, require an institution, otherwise eligible for such an assurance, to submit special assurances.

§ 745.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.

Any institution proposing to conduct research involving subjects at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, including any release of the institution or its agents from liability for negligence.

§ 745.10 Documentation of informed consent.

The actual procedure utilized in obtaining legally effective informed consent and the basis for Institutional Review Board determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will employ one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This may be read to the subject or to his legally authorized representative, but in any event he or his legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his representative. Sample copies of the consent form, as approved by the Board, are to be retained in its records.

(b) Provision of a "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his legally authorized representative. Written summaries of what is to be said to the subject are to be approved by the Board. The short form is to be signed by the subject or his legally authorized representative and by a witness to the oral presentation and to the subject's signature or that of his representative. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the witness. Copies of the form and the summary shall be supplied to the subject or to his representative. Sample copies of the consent form and of the summaries as approved by the Board are to be retained in the Board's records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the Board and the institution to establish: (1) That the risk to any subject is minimal, (2) That use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and (3) That any reasonable alternative means for attaining these objectives would be less advantageous to the subjects. The Board's reasons for permitting the use of modified procedures must be individually and specifically documented in the minutes and in reports and Board actions to the files of the institution. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

(d) In those cases when new information is provided to the subject during the course of the research, the information shall be reviewed and approved by the Board and a copy retained in its records.

§ 745.11 Submission and certification of applications and proposals—general assurances.

(a) Timely review. Any institution having an approved general assurance shall indicate in each application or proposal for support of activities covered by this part (or in a separate document submitted with such application or proposal) that it has on file with DOE or DHHS such an assurance. In addition, no DOE funds will be awarded for a proposal until the institution has certified that the research proposal has been reviewed and approved by the Institutional Review Board. In the event the Secretary provides for the performance of institutional review of an application or proposal after its submission to DOE, processing of such application or proposal by DOE will under no circumstances be completed until such institutional review and approval has been certified.

(b) In order to give its approval, the Institutional Review Board must determine that all of the following requirements are satisfied:

(1) The research methods are appropriate to the objectives of the research and the field of study.

(2) Selection of subjects is equitable, taking into account the purposes of the research.

(3) Risks to subjects are minimized by using the safest procedures consistent with sound research design.

(4) Risks to subjects are reasonable in relation to anticipated benefits to subjects and to maintain the confidentiality of data.

(5) There are adequate provisions to protest the privacy of subjects and to maintain the confidentiality of data.

(c) Except where the institution determines that human subjects are not involved, the application or proposal should be appropriately certified in the space provided on forms, or the following certification, should be typed on the lower or right-hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the institution.

Human Subjects: Reviewed, Approved.
Signed—Date

(d) Applications and proposals not certified. Applications and proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the institution concerned.

§ 745.12 Submission and certification of applications and proposals—special assurances.

(a) Except as provided in paragraph (b) of this section, institutions not having an approved general assurance shall submit in or with each application or proposal for support of activities covered by this part a separate special

assurance and certification of its review and approval of the research by the Institutional Review Board.

(b) If the Secretary so provides, the assurance which must be submitted in or with the application or proposal under paragraph (a) of this section need satisfy only the requirements of § 745.7 (a) and (b). Under such circumstances, processing of such application or proposal by DOE will not be completed until a further assurance satisfying the remaining requirements of § 745.7 has been submitted to DOE.

(c) An assurance and certification prepared in accordance with this part and approved by DOE shall be considered to have met the requirement for certification for the initial agreement period concerned. If the terms of the agreement recommend additional support periods, each application or proposal for continuation or renewal of support must satisfy the requirements of this section or § 745.11 whichever is applicable at the time of its submission.

§ 745.13 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications or proposals are submitted with the knowledge that subjects are to be involved within the support period, but definite plans for this involvement would not normally be set forth in the application or proposal. These include such activities as (a) institutional-type grants where selection of projects is the responsibility of the institution, (b) training grants where training projects remain to be selected, and (c) research, pilot, or developmental studies in which human subjects' involvement depends upon such things as the completion of instruments, prior animal studies, or upon the purification of compounds. These applications need not be reviewed by an Institutional Review Board before an award may be made. However, no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the Institutional Review Board as provided in these regulations, and certification submitted to DOE.

§ 745.14 Applications and proposals submitted with the intent of not involving human subjects.

If an application or proposal does not anticipate involving or intend to involve human subjects, no certification should be included with the initial submission of the application or proposal. In those instances, however, when later it becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved by the Institutional Review Board, as provided in these regulations. In addition, no such activity shall be undertaken until the institution has submitted to DOE: (a) A certification that the activity has been reviewed and approved in accordance with this part, and (b) A detailed description of the proposed activity (including any protocol, revised statement of work or similar document). Also, where support is provided by project grants or contracts, subjects shall not be involved prior to certification and institutional receipt of DOE approval and, in the case of contracts, prior to negotiation and formal amendment of the contract statement of work.

§ 745.15 Evaluation and disposition of applications and proposals.

(a) Notwithstanding any prior review, approval, and certification by the institution, all applications or proposals submitted to DOE involving human subjects at risk shall be evaluated by the Secretary for compliance with this part through such officers and employees of DOE as he determines to be appropriate. For applications or proposals involving aubjects at risk, this evaluation shall take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others, and the importance of the knowledge to be gained.

(b) Disposition. On the basis of his evaluation of an application or proposal, pursuant to paragraph (a) of this section, and subject to such approval or recommendation by or consultation with appropriate councils, committees, or other bodies as may be required by law, the Secretary shall approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one. With respect to any grant or contract award or other agreement, the Secretary may impose conditions, including restrictions on the use of certain procedures or certain subject groups, or requiring use of specified safeguards or informed consent procedures when in his judgment such conditions are necessary for the protection of human subjects.

§ 745.16 Cooperative activities.

Cooperative activities are those which involve institutions in addition to the institution having an agreement with DOE (herein referred to as, though not limited to, a grantee or prime contractor). Examples of cooperative activities are those of a contractor under a grantee or of a subcontractor under a prime contractor. If, in such instances, the grantee or prime contractor obtains access to all or some of the subjects involved through one or more cooperating institutions, the basic DOE policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Institutions with approved general assurances.* Initial and continuing review by the institution may be carried out by one or a combination of procedures:

(1) *Cooperating institution with approved general assurance.* When the cooperating institution has on file with DOE or DHHS an approved general assurance, the grantee or prime contractor may, in addition to its own review, request the cooperating institution to conduct an independent review, and to report its recommendations on those aspects of the activity that concern individuals for whom the cooperating institution has responsibility under its own assurance to the grantee's or prime contractor's Institutional Review Board. The grantee or prime contractor may, at its discretion, concur with or further restrict the recommendations of the cooperating institution. It is the responsibility of the grantee or prime contractor to maintain communication with the Boards of the cooperating institution. However, the cooperating institution shall promptly notify the grantee or contracting institution whenever the cooperating institution finds the conduct of the project or activity within its purview to be unsatisafactory.

(2) *Cooperating institution with no approved general assurance.* When the cooperating institution does not have an approved general assurance on file with DOE or DHHS, DOE may require the submission of a general or special assurance which, if approved, will permit the grantee or prime contractor to follow the procedure outlined in the preceding subparagraph.

(3) *Interinstitutional joint review.* The grantee or prime contracting institution may wish to develop an agreement with cooperating institutions to provide for an Institutional Review Board with representatives from cooperating institutions. Representatives of cooperating institutions may be appointed as ad hoc members of the grantee or contracting institution's existing Institutional Review Board or, if cooperating is on a frequent or continuing basis, as between a medical school and a group of affiliated hospitals, appointments for extended

periods may be made. All such cooperative arrangements must be approved by DOE or DHHS as part of a general assurance, or as an amendment to a general assurance.

(b) *Institutions with special assurances.* While responsiblity for initial and continuing review necessarily lies with the grantee or prime contracting institution, DOE may also require approved assurance from those cooperating institutions having immediate responsibility for subjects. If the cooperating institution has on file with DOE or DHHS an approved general assurance, the grantee or prime contractor shall request the cooperating institution to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has responsibility. Such a request shall be in writing and should provide for direct notification of grantee's or prime contractor's Institutional Review Board in the event that the cooperating insitution's Board finds the conduct of the activity to be unsatisfactory. If the cooperating institution does not have an approved general assurance on file with DOE or DHHS, it must submit to DOE a general or special assurance which is determined by DOE to comply with the provisions of this part.

§ 745.17 Investigational new drug 30-day delay requirement.

Where an institution is required to prepare or to submit a certification under these regulations, and the application or proposal involves an investigational new drug within the meaning of the Food, Drug, and Cosmetic Act, the drug shall be identified in the certification, together with a statement that the 30-day delay required by 21 CFR 312.1(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subject; or that the Food and Drug Administration has waived the 30-day delay requirement provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to DOE upon such expiration, or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 745.18 Institution's executive responsibility.

Specific executive functions to be conducted by the institution include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the Board's functions. Implementation of the Board's recommendations through appropriate administrative action and follow-up is a condition of DOE approval of an assurance. Board approvals, favorable actions, and recommendations are subject to review and to disapproval or further restriction by the institution officials. Board disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of a Board described in the assurance approved by DOE or DHHS.

§ 745.19 Institution's records; confidentiality.

(a) Copies of all documents presented, or required for initial and continuing review by the Institutional Review Board, and documents such as Board minutes, records of subject's consent, transmittals on actions, instructions, and conditions resulting from Board deliberations addressed to the activity director, are to be retained by the institution permanently unless permission is obtained from the Secretary to destroy specific records.

(b) Except as otherwise provided by law, information in the records or possession of an institution acquired in connection with an activity covered by this regulation, which information refers to or can be identified with a particular subject, may not be disclosed except:

(1) With the consent of the subject or his legally authorized representative, or

(2) As may be necessary for the Secretary to carry out his responsibilities.

§ 745.20 Reports.

Each institution with an approved assurance shall provide the Secretary with such reports and other information as the Secretary may, from time-to-time, prescribe.

§ 745.21 Early termination of awards; evaluation of subsequent applications and proposals.

(a) If, in the judgment of the Secretary, an institution has failed materially to comply with the terms of these regulations with respect to a particular DOE agreement, the Secretary may require that said agreement be terminated or suspended.

(b) In evaluating applications or proposals for support of activities covered by this part, the Secretary may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) Whether the applicant has been subject to a termination or suspension under paragraph (a) of this section; (2) whether the applicant, offeror, or the person who would direct the scientific and technical aspects of an activity has, in the judgment of the Secretary, failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not DOE funds were involved); and (3) whether, where past deficiencies have existed in discharging such responsibility, adequate steps have, in the judgment of the Secretary, been taken to eliminate these deficiencies.

§ 745.22 Conditions.

The Secretary may, with respect to any agreement or any class of agreements, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

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Tuesday
November 25, 1980

Part XIV

Department of Energy

Bonneville Power Administration

Record of Decision for the Buckley-Summer Lake 500-kV Transmission System in Central Oregon

DEPARTMENT OF ENERGY

Bonneville Power Administration

Record of Decision for the Buckley-Summer Lake 500-kV Transmission System in Central Oregon

Decision Summary

The Bonneville Power Administration (Bonneville), in accordance with the procedural requirements of the National Environmental Policy Act (40 CFR Part 1505), has decided to build the proposed 156-mile, 500,000-volt (500-kV) Buckley-Summer Lake transmission line. Bonneville will also develop terminal facilities, identified as Buckley and Summer Lake Substations, at both ends of the new line. Bonneville will consequently operate and maintain these facilities in a manner which assures reliable service to its customers.

Background

Bonneville, under the provisions of the Bonneville Project Act of 1937 and the Federal Columbia River Transmission System Act of 1974, has conducted power marketing and power flow studies in order to identify facilities which would facilitate the transfer of power from the Federal Columbia River Transmission System (FCRTS) to Bonneville's customers in southern Idaho and Utah. The Buckley-Summer Lake transmission line is the initial phase of a two-phase plan of service which, through interconnections with transmission lines of the Idaho Power Company (IPC) and Pacific Power & Light Company (PP&L), will serve this objective. This plan will also allow power generated in Wyoming to be delivered to the Pacific Northwest, including southwest Oregon; it will reinforce the existing Pacific Northwest-Pacific Southwest Intertie within the State of Oregon, and it will provide additional transmission capacity which can be utilized for wheeling services and other power transactions in the region.

The second phase of the plan of service involves the installation of a 500-kV transmission line between the Idaho Power Transmission System and Bonneville's system in eastern Oregon. This line is proposed for the late 1980's and will be discussed in a separate location phase environmental impact statement (EIS).

As the proposed action was considered likely to have a significant effect on the environment, Bonneville prepared an environmental impact statement. A tiered EIS procedure was followed. The Buckley-Summer Lake transmission line was initially discussed within a draft and final planning level EIS DOE/EIS-0005-FS-2). This EIS discussed the need for the project, several alternative electrical system plans by which these needs could be satisfied, and the probable environmental impacts of these alternatives. The final planning level EIS was filed on September 24, 1979, and served as a basis for Bonneville's decision to include the project in Bonneville's Congressional Budget for the Fiscal Year 1979 program and the decision on which electrical plan was preferable.

Following completion of the planning phase EIS (DOE/EIS-0005-FS-2), a location phase EIS (DOE/EIS-0050-FS) was prepared for the Buckley-Summer Lake line. This EIS provides a more detailed, site-specific analysis of environmental impacts, and alternative transmission line designs as well as operation and maintenance impacts. The title of Bonneville's location phase EIS is as follows:

Final Supplement—Final Environmental Impact Statement, Bonneville Power Administration, Proposed Fiscal Year 1979 Program, Facility Location Supplement, Southwest Oregon Area Service Buckley-Summer Lake 500-kV Line, U.S. Department of Energy, July 25, 1980.

Following discussions further describe Bonneville's decisions for the Buckley-Summer Lake project. Upon filing in the **Federal Register** this record of decision will be distributed to all agencies, organizations, and public who were on the official project mailing list.

Description of Decisions

BPA will build a 156-mile 500-kV transmission line extending in a north-south direction through Central Oregon (Attachment 1). The line will begin at the intersection of four existing BPA 500-kV transmission lines, 10 miles east of Maupin, Oregon, in Wasco County. From this point the line, which is adjacent to the east side of two existing 500-kV transmission lines, will extend south through Jefferson, Crook, and Deschutes Counties, to its southern terminus in Lake County, Oregon. The southern terminus is located about 10 miles south of Oregon State Highway 31 at the intersection of PP&L's Midpoint-Malin 500-kV transmission line (under construction) and the BPA and Portland General Electric (PGE) 500-kV AC Intertie lines near Summer Lake.

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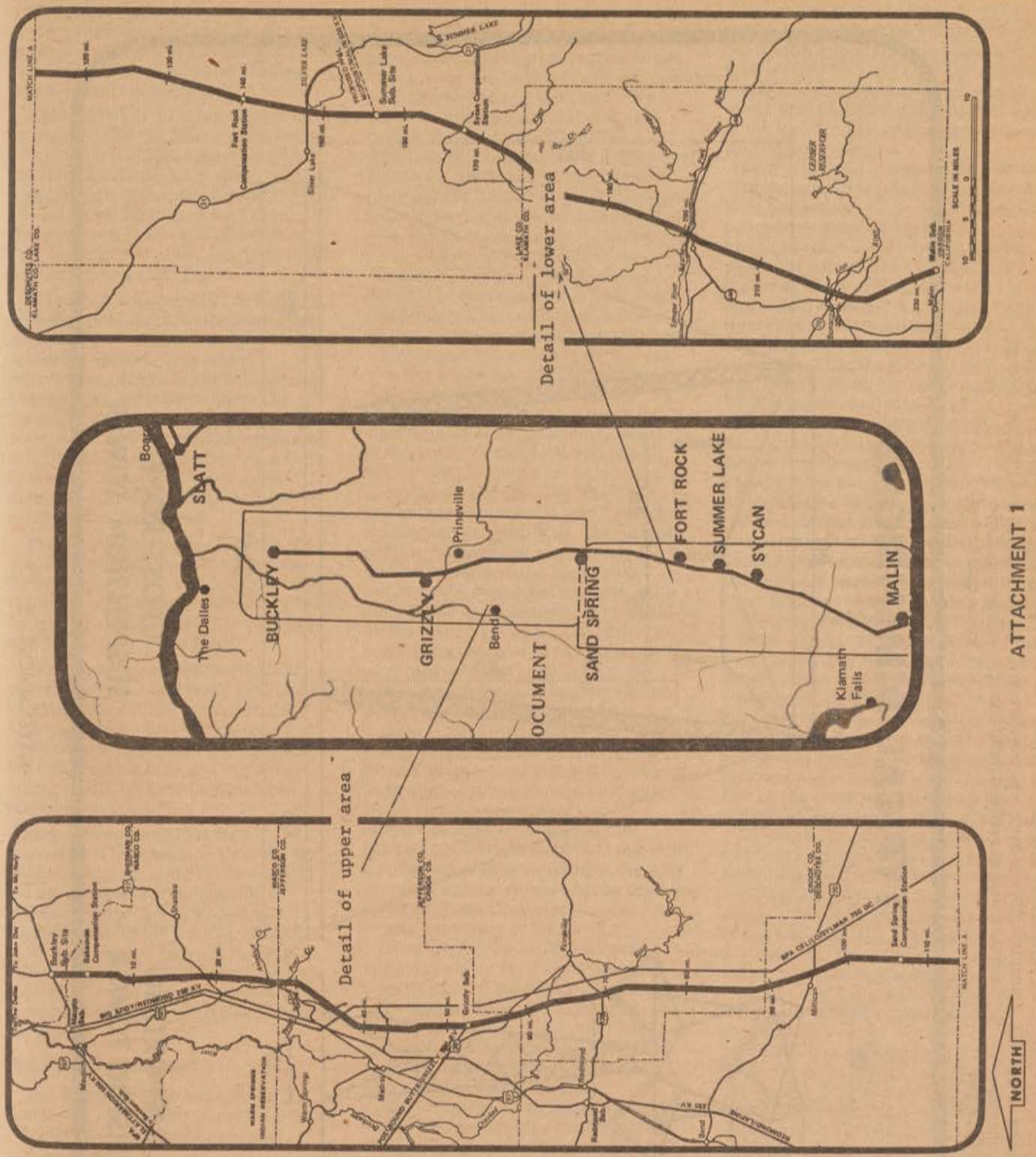

ATTACHMENT 1

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The line will utilize two types of transmission towers, lattice steel "delta" configuration self-supporting suspension towers and cross-rope suspension towers (Attachment 2). Where self-supporting structures are used, 77.5 feet of right-of-way easement will be acquired. Where cross-rope towers are used (23 miles) an additional 150 feet of right-of-way easement will be acquired. At cross-rope tower sites an additional easement of 220 feet (200 feet in length) will be acquired.

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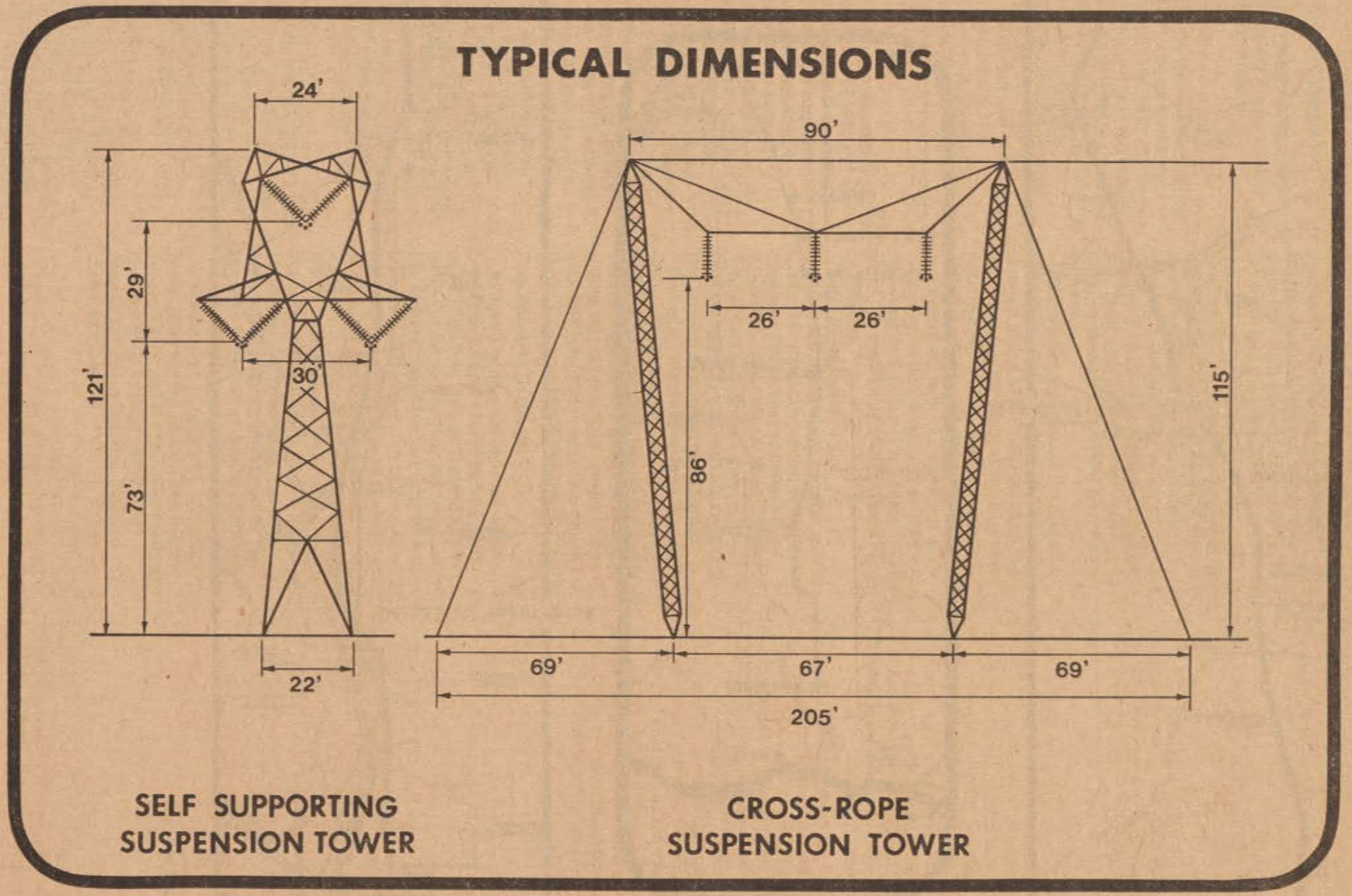

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ATTACHMENT 2

Only minor access road construction and improvement will be required, as the roads acquired or constructed for the two existing lines will serve the new line over most of the route.

Approximately 10 acres of land will be acquired for the Buckley Substation. About 3,000 feet of access road will be developed. Although full site development at Buckley Substation will be completed initially, installation of electrical equipment will be minimal. Full development of the substation will not occur for several years.

Bonneville will develop the Summer Lake Substation during the same time period as the transmission line. The site is located ¼ mile north of the intersection of PP&L's Midpoint-Malin Line and the AC Intertie lines. The Summer Lake station will occupy a 35-acre site. In order to provide access to this site, about 8 miles of existing U.S. Forest Service access road will be upgraded and about 0.5 mile of new road will be constructed.

The total estimated cost for the project is $48.0 million. The Buckley-Summer Lake line is estimated to cost $35.8 million. Buckley and Summer Lake Substations are estimated to cost $7.4 and $4.8 million respectively.

Once constructed, Bonneville will operate and maintain these facilities. Maintenance actions such as routine and emergency repairs to electrical equipment within the substations and to the transmission line, and vegetation management, will ensure continued reliable operation.

Maintenance activities for Bonneville's transmission lines are being analyzed in a separate environmental impact statement on Bonneville's maintenance program. Vegetation management for the Buckley-Summer Lake transmission line will be very infrequent since growth rates are very slow in this area and few species will grow high enough to become a hazard to the line.

Description of Alternatives

The alternatives considered by Bonneville in reaching its decision were:

1. Nonconstruction Alternatives.
   a. No Action.
   b. Energy Conservation and Load Management.
2. Construction Alternatives.
   a. Transmission Line Route Alternatives.
   b. Transmission Line Design Alternatives.
   c. Substation Location Alternatives.
   d. Substation Design Alternatives.

Basis of Decision

The existing transmission system will not be adequate to meet requirements by the early 1980's. Bonneville evaluated several alternative solutions to this problem. Plans for several alternate combinations of transmission line additions were evaluated and discussed within the Southwest Oregon Service planning EIS (DOE/EIS–0005–FS–2) and a decision to upgrade the transmission system was subsequently made. Each of these alternatives analyzed in the planning EIS required the Buckley-Summer Lake transmission line; thus this facility is common to all known transmission construction alternatives.

Two nonconstruction options were evaluated. The first of these is the no action alternative. If the Buckley-Summer Lake line is not constructed, the electric utilities in the affected areas, primarily PP&L and BPA, will not be able to supply their load adequately. Local power deficits may result in brownouts or blackouts under certain system outage conditions. The lack of sufficient transmission caspacity to deliver power to these areas will prevent BPA from meeting some of its contractual commitments. BPA would be unable to serve its southern Idaho loads without purchase of power either within or adjacent to that region. No such power source (surplus to other utilities' needs) appears to be available.

After PP&L's Midpoint-Malin-Medford line is constructed, southern Oregon loads will be served adequately as long as the line is interconnected at Malin. However, because of this interconnection, an outage of the Midpoint-Malin section would result in a reduction of Intertie transfer capacity, since the Intertie would then be used to serve southern Oregon loads. The overall reliability of the Pacific Northwest/Pacific Southwest power system could be severely weakened. Construction of the Buckley-Summer Lake line would maintain Intertie transfer capability while providing backup to southern Oregon service as well as providing for future service to BPA central Oregon loads.

The other nonconstruction alternative considered was energy conservation and load management. Bonneville and other Northwest utilities have embarked on a multifaceted energy conservation program. Although these efforts are expected to reduce energy consumption, they will not forestall the need for the Buckley-Summer Lake line or fulfill the purposes and needs for which this facility is proposed.

The above considerations led to the decision that construction of the Buckley-Summer Lake project was the best solution. The location and design of the transmission line as well as the Buckley and Summer Lake Substations received consideration in the location phase EIS (DOE/EIS–005–FS). The bases of the location and design decisions are summarized below.

Only a parallel transmission line route was considered for the Buckley-Summer Lake transmission line. It is Bonneville's policy to avoid creating new transmission line corridors by placing new lines adjacent to existing lines or replacing lower-voltage lines with larger ones when possible. An existing 500-kV transmission line corridor extended the full distance between the proposed terminals of the Buckley-Summer Lake line. Environmental studies conducted by Bonneville staff uncovered no environmental conditions which warranted the analysis of a new and less environmentally sensitive route. Significant environmental benefits such as reduced access road requirements, reduced right-of-way clearing, and comparatively less visual and ecological impact were attributed to a parallel location. Consequently no alternative transmission line routes were evaluated.

The transmission line structures which will be used on the line are of two basic types. The self supporting tower design (illustrated in Attachment 2) is a standard BPA 500-kV design. This structure requires a particularly narrow right-of-way. It was designed for use where existing low-voltage lines are removed and replaced with a 500-kV line on the same right-of-way. This design will be used for most of the line.

Newly designed transmission structures referred to as "cross-rope" structures will be used between miles 40 and 63 of the line. Economics and research motives were primary factors in this decision. The design was developed by the electric power industry to reduce transmission structure costs. It requires only four towers per mile as compared to five for conventional towers. Bonneville decided to utilize these structures on a portion of its line in order to gain experience with this design. Resource conservation benefits will also occur, as steel requirements are reduced. Tower visibility will also be lower, with the use of fewer and smaller members.

Decisions on location of the Buckley and Summer Lake Substations were restricted due to necessary interconnections with existing transmission lines. Three alternative sites were evaluated for Buckley Substation. After extensive discussions with landowners, a site was selected which was most acceptable tol the

landowners and would minimize impacts to farm operations. Where possible, transmission towers in the vicinity of the substation were placed on rocky outcroppings which were unsuitable for crops. The access road was rerouted to minimize its impact on tillable land. Bonneville has decided to install a gas-insulated station at Buckley in order to keep the size of the site to a minimum. This type of station requires one-third the acreage of a conventional air-insulated station.

The site selected for Summer Lake Substation is located near the junction of PP&L's new Midpoint-Malin line and the existing transmission line corridor which the Buckley-Summer Lake line will follow. Environmental conditions are fairly homogenous in the area. The availability of an existing access road to the site was a major factor in its selection. Bonneville's proposal to locate a substation at this site did not elicit any public comment.

The Summer Lake Substation will be an air-insulated substation designed to minimize the need for plowing snow inside the substation. This reduces the need for paving inside the substation and minimizes the impact of construction at the site. A gas-insulated substation was found to be impractical because of weather conditions.

Providing access for construction and maintenance of the transmission line will require less than 1 mile of new road construction and improvement of about 2 miles of existing roads outside of the right-of-way. Most of the route will be served by roads acquired or constructed for the two existing lines. Buckley Substation will require the construction of about 3,000 feet of access road. Summer Lake Substation will require upgrading of about 8 miles of existing forest service access road, and about 2,500 feet of new access road.

Environmentally Preferred Alternative

Bonneville defines the "environmentally preferred alternative" as that alternative which best meets the purposes of NEPA Section 101. The provisions of NEPA Section 101 direct agencies of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to conduct their actions in a manner that:

1. Fullfills the responsibilities of each generation as trustee of the environment for succeeding generations;

2. Assures for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

3. Attains the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

4. Preserves important historic, cultural, and natural aspects of our national heritage, and maintains, wherever possible, an environment which supports diversity, and variety of individual choice;

5. Achieves a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

6. Enhances the quality of renewable resources and approaches the maximum attainable recycling of depletable resources.

In response to these considerations, Bonneville determined that the selected alternative was environmentally preferable. Environmental studies concluded that a parallel transmission line route would have the least environmental impact. Therefore, no alternative routes were evaluated. Selection of the environmentally preferred alternative is thus based on comparison of Bonneville's proposal and the no action alternative.

Although the proposal results in adverse environmental effects, these are within established limits, and Bonneville's mitigation commitments establish adequate means by which to avoid or minimize environmental harm. Public review and comment on the project EIS did not uncover facts suggesting that unsatisfactory effects on public health, welfare or environmental quality would result from the Buckley Summer Lake project.

A number of beneficial impacts would result from this project. The proposal will assure reliable electrical service to customers of both PP&L and Bonneville in the affected areas. The proposed facilities will prevent brownouts or blackouts under certain outrage conditions as well as provide sufficient transmission capacity for Bonneville to meet its contractual commitments. The proposal also assures that transfer capability over the Pacific Northwest/Pacific Southwest Intertie is maintained while providing for future service to Central Oregon loads.

The proposed action thus assures environmental protection while attaining the widest range of beneficial uses of the environment. A balance is achieved between population and resources use that will permit high standards of living and a wide sharing of life's amenities.

The no action alternative, although avoiding the identified adverse impacts to the natural environment, would not provide the beneficial impacts attributatable to the proposal. With respect to the purposes of NEPA, as expressed in Section 101, the no action alternative does not attain the widest range of beneficial uses of the environmental nor does it achieve a balance between resources use that permits a high standard of living or a sharing of life's amenities.

On balance, it is Bonneville's conclusion that the environmentally preferred alternative is to have the line and its benefits.

Impact Mitigation and Monitoring Actions

All practicable means to avoid or minimize environmental harm have been adopted. As descriped in the final Buckley-Summer Lake EIS, Bonneville will take the following actions to minimize environmental impacts:

1. Bonneville will implement, through its contruction representatives and the construction contractor, the environmental quality protection provisions set forth in the Tranmission Engineering Standard Construction Specifications, 1978, Bonneville Power Administration, U.S. Department of Energy.

2. Bonneville, the course of its environmental studies, identified four historic sites and 37 archaeological sites along the transmission line which are potentially eligible for the National Register of Historic places. Site testing of the archaeological sites and consultation with the Oregon SHPO is still in progress. In the meantime Bonneville will take no actions having adverse effects on these archaeological sites. Where adverse impact cannot be avoided, mitigation and/or excavation actions will first be undertaken in accordance with Section 106 of the National Historic Preservation Act and with the guidance of the State Historic Preservation Officer.

3. In accordance with the Bonneville/U.S. Forest Service Memorandum of Understanding, a joint-project plan will be completed for line and facility locations on U.S. Forest Service lands. The plan will be prepared to develop the land-use grant and will assist in coordinating BPA contractor and Forest Service actions. A right-of-way management plan will be jointly prepared by the Forest Service and BPA prior to completion of construction. It will define methods to be used in right-of-way maintenance which protect the environment as well as assure operational realibility of the line.

4. Bonneville construction representatives will review soil erosion measures with local soil and water control districts.

5. Right-of-way clearing will be limited to that which is necessary to

construct the line and to assure its reliable operation.

6. To limit dust and localized air pollution, Bonneville will minimize soil disturbance, will limit the type of construction equipment and allowable speeds, will surface unpaved roads in sensitive areas with crushed rock and will comply with Oregon State Department of Environmental Quality (DEQ) regulations regarding slash disposal.

7. Vehicle access will be limited to specific work areas and designated roads. Activities such as road construction and grading will be kept to a minimum. Prior to the start of construction, an access road plan will be prepared which establishes a single travel route for use during construction. This plan will be incorporated in the construction specifications and enforced by Bonneville construction representatives.

8. Access roads will avoid steep slopes to the maximum extent possible and when not possible water bars will be installed and exposed soils seeded or stabilized by other appropriate methods.

9. Disposal of excess earth and rock will be limited to areas of minimum impact. Site approval will be made by Bonneville's construction representative and will follow Federal, State and local regulations as well as good environmental practices.

10. Crushed rock and other road and fill material will be obtained only from environmentally approved sites. Site approval will be made by Bonneville's construction representative and will follow Federal, State and local regulations as well as good environmental practices.

11. Construction in areas susceptable to high wind or water erosion would be timed to avoid seasonal periods of high wind or intense rain.

12. Impact on ecologically sensitive areas including wetland areas will be avoided by careful tower and access road locations. At a minimum, disturbance in such areas will be avoided immediately prior to spring run-off.

13. Construction schedules within the Crooked River National Grasslands (miles 40–63) will be coordinated with the Deschutes National Forest.

14. Access roads required in forested lands will follow cleared areas and removal of trees will be avoided to the extent practicable.

15. Construction activities will be limited in the vicinity of Silver Lake during the waterfowl and upland bird nesting which occurs during March, April, and May.

16. Construction across identified deer/antelope winter ranges near Silver Lake (miles 95–120) will be coordinated with the Lakeview District of the Oregon State Department of Game.

17. Footing installation and tower erection in the Prineville area will be completed between October and mid-February to reduce crop damage.

18. BPA or its contractor will cooperate with property owners to minimize crop and property damage. BPA or its contractors will pay fair compensation for damages incurred including modifications to sprinkler systems made necessary by tower locations.

19. Visual impacts to Antelope Creek, Pony Creek, and the Crooked River, will be minimized to the extent possible by selecting topographically screened tower locations and minimizing ground disturbance.

20. To minimize impacts to agricultural lands, transmission line towers will be placed at field edges or in uncultivated areas when practicable.

21. Roads previously used for logging or construction of the adjacent transmission line will be used whenever practicable to avoid additional ground disturbance.

22. If the new facilities cause television or radio interference, mitigation in accordance with Bonneville policy will be undertaken. Similiarly, if railroad or telephone interference are created, mitigation actions will be implemented.

23. Near Madras, Oregon, the transmission line is parallel to a pipeline. If necesary, Bonneville will utilize mitigation measures to minimize induced current in this pipeline.

24. In areas where ground disturbance causes an erosion problem, non-palatable species will be planted. Where practicable, grazing will be deferred for at least 3 years to enhance recovery.

The above provisions will be incorporated in Bonneville's construction specifications and enforced by Boneville's construction representatives as part of Bonneville's monitoring and enforcement program. A monthly project environmental progress report will describe the status of environmental mitigation measures. Periodic field inspections in sensitive areas will be made by BPA environmental specialists if determined to be appropriate.

Other Determinations

Floodplain determination—Bonneville, in response to Executive Order 11988—*Floodplain Management* and Department of Energy's *Compliance With Floodplain/Wetlands Environmental Review Requirements* (10 CFR 1022.15), evaluated in the draft and final EIS, the potential effects of the Buckley-Summer Lake project on floodplains. The transmission line crosses the Crooked River Valley at a point where the 100-year floodplain is narrow in width (about 350 feet). The transmission line will span both the river and the floodplain. As no transmission structures or access roads will be located within the floodplain, this is not a floodplain action within the meaning of DOE Floodplain/Wetland Environmental Review Requirements. Bonneville did, however, review in the final EIS the environmental impacts of crossing the floodplain. Visual impact on the area's scenic qualities was the primary impact. Use of an alternative route that would avoid crossing the floodplain would substantially increase the length of the line, significantly increase costs, and no doubt create impacts to other resources. For these reasons, Bonneville has determined that there is no practicable alternative to crossing the Crooked River floodplain.

Preservation of Farmlands—The Buckley-Summer Lake transmission line crosses farmlands in several locations, some of which are termed "prime and unique" by the U.S. Department of Agriculture. The Buckley Substation is located on wheatland. It is estimated that transmission tower bases may remove as much as 0.6 acres of prime and unique farmland from production. About 14.2 acres of agricultural land (not classified prime) would be converted to other use following construction of the Buckley Substation, the access road for Buckley Substation, and transmission tower bases.

The location and design of the Buckley Substation was coordinated with the landowner to minimize impact on agricultural uses. Several substation sites were evaluated. The use of these sites would have required construction of additional transmission line across farmlands. Transmission lines costs would also be greater. The selected site has the lowest overal effect on agriculture of those considered.

The Buckley-Summer Lake line follows an existing transmission line which crosses agricultural lands. Parallel location will reduce argicultural impacts. Careful tower placement will minimize disruption of agricultural operations.

The national interest is served both by preservation of agricultural lands as well as providing for electrical service. There are no practicable alternatives which would allow both of these interests to be served without conversion of that agricultural land

described above. All practicable means to minimize agricultural impacts have been adopted by Bonneville.

Rare and Endangered Species—Bonneville has consulted with the U.S. Fish and Wildlife Service (USFWS) pursuant to the Endangered Species Act of 1973. Bonneville prepared a biological assessment which concluded that the Buckley-Summer Lake project would have no impact on rare and endangered species. The USFWS concurred with Bonneville's biological assessment on April 18, 1980.

Wetlands Protection—The Buckley-Summer Lake transmission line will cross several marshy areas that are adjacent to slow moving rivers and streams. These wetland areas are linear in configuration and there is not practicable alternative to crossing them. Bonneville will avoid placing towers or access roads within wetlands.

Intergovernmental Cooperation—In accordance with the procedures outlined by the Office of Management and Budget (OMB) Circular No. A–95, Bonneville transmitted its draft and final environmental impact statements to involved Federal, State and local clearinghouses. It is Bonneville's determination that the Buckley-Summer Lake project is consistent and compatible with State, area and local development plans. This record of decision will be distributed to A–95 clearinghouses to notify them of actions to be taken.

Dated at Portland, Oregon, this 10th day of November, 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-36726 Filed 11-24-80; 8:45 am]

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