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Highlights

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

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Presidential Documents

Title 3—

The President

Proclamation 4853 of August 20, 1981

Commodore John Barry Day

By the President of the United States of America

A Proclamation

Commodore John Barry, hero of the American Revolution and holder of the first commission in the United States Navy under the Constitution, was born in 1745, in County Wexford, Ireland. Commodore Barry was commissioned to command the brig Lexington, one of the first ships bought and equipped for the Revolution, and became a national hero with the engagement and capture of the British warship Edward on April 7, 1776. He distinguished himself throughout the Revolution and again shortly thereafter in the Quasi-War with France as a fighter and seaman.

In 1797, with the advice and consent of the Senate, President Washington appointed Commodore Barry Captain in the Navy of the United States and Commander of the Frigate United States. In so doing, the President said that he placed "special Trust and Confidence in (Commodore Barry's) Patriotism, Valour, Fidelity, and Abilities".

Commodore Barry was honored by the United States Congress in 1906, when a statue was commissioned and later placed in Lafayette Park, Washington, District of Columbia, and honored again some fifty years later when President Eisenhower caused a statue of Commodore Barry to be presented on behalf of the people of the United States to the people of Ireland, at County Wexford, Ireland.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate September 13, 1981, as "Commodore John Barry Day", as a tribute to one of the earliest and greatest American Patriots, a man of great insight who perceived very early the need for American power on the sea. I call upon Federal, state, and local government agencies and the people of the United States to observe such day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of August, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 81-24846
Filed 8-21-81; 3:06 pm]
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Presidential Documents

Executive Order 12318 of August 21, 1981

Statistical Policy Functions

By virtue of the authority vested in me as President by the Constitution and statutes of the United States, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), Section 3(a) of the Paperwork Reduction Act of 1980 (Public Law 96–511, 94 Stat. 2825, 44 U.S.C. 3503 note), and Section 301 of Title 3 of the United States Code, and in order to transfer, redelegate, and reassign certain statistical policy functions from the Secretary of Commerce to the Director of the Office of Management and Budget, and to require redelegation of certain functions to the Administrator for the Office of Information and Regulatory Affairs, it is hereby ordered as follows:

Section 1. Sec. 1(c) of Executive Order No. 11541 of July 1, 1970, as amended, is amended by deleting the last phrase "is terminated on October 9, 1977" and substituting therefor "shall be implemented in accord with Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), to the extent that provision is applicable".

Sec. 2. Executive Order No. 10253 of July 11, 1951, as amended, is further amended as follows:

(a) "Secretary of Commerce" is deleted in Section 1 and "Director of the Office of Management and Budget" is substituted therefor.

(b) "Secretary" is deleted wherever it appears in Sections 1, 2, 4, 5, and 6 and "Director" is substituted therefor.

(c) "Department of Commerce" is deleted in Section 6 and "Office of Management and Budget" is substituted therefor.

(d) Section 7 is deleted and a new Section 7 is substituted therefor as follows:

"Sec. 7. As required by Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), the Director shall redelegate to the Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget, all functions, authority, and responsibility under Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) which have been vested in the Director by this Order.".

(e) Section 8 is revoked.

Sec. 3. Executive Order No. 10033, as amended, is further amended as follows:

(a) "Secretary of Commerce, hereinafter referred to as the Secretary,", is deleted in Section 1 and "Director of the Office of Management and Budget, hereinafter referred to as the Director,", is substituted therefor.

(b) "Secretary" is deleted wherever it appears in Sections 2(a), 2(b), 2(c), 3, 4, and 5 and "Director" is substituted therefor.

(c) Section 7 is revoked.

Sec. 4. (a) Executive Order No. 12013 is revoked.

(b) Section 4 of Executive Order No. 11961, as amended, is further amended by deleting "the Secretary of Commerce shall perform the functions set forth in Sections 4(a)(3) and 5(c) of the Act", and substituting therefor "the Secretary of Commerce shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a)(3) of the Act".

Sec. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, are hereby transferred to the Director of the Office of Management and Budget.

Sec. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all steps necessary or appropriate to ensure or effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Sec. 7. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, shall remain in effect until amended, modified, or revoked pursuant to the delegations made in this Order.

Sec. 8. This Order shall be effective August 23, 1981.

Ronald Reagan

THE WHITE HOUSE,
August 21, 1981.

[FR Doc. 81-24849
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Recovery of Indebtedness Owed by Former Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations.

SUMMARY: The Office of Personnel Management (OPM) is publishing interim regulations consistent with recent revisions in the joint General Accounting Office-Justice Department Federal Claims Collection Standards on recovering an indebtedness to a Federal agency by setoff. These interim regulations prescribe the procedure by which a Federal agency may recover an indebtedness owed by a former Federal employee who was subject to the Civil Service Retirement law, by means of a setoff against amounts due and payable to the former Federal employee from the Civil Service Retirement and Disability Fund (Fund). The interim regulations facilitate collection of debts owed by former Federal employees and provide due process to former Federal employees.

DATE: Interim rule effective August 1, 1981; comments must be received on or before October 26, 1981.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or delivered to Room 4351, 1900 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Federal Claims Collection Standards, 4 CFR Part 101 et seq.

Recent court decisions have emphasized the need for Government agencies to provide due process procedures to debtors prior to initiating offset actions. Since the Office of Personnel Management is frequently requested to collect indebtedness owed other Federal agencies when the debtor is entitled to payment from the Fund, we are prescribing these regulations consistent with recent changes in the Federal Claims Collection Standards which added certain due process procedures for debtors whose accrued pay, compensation, accrued benefits or lump sum retirement credit will be setoff to recover an indebtedness. The regulations are necessary to permit OPM to continue to process agency requests under the revised collection standards.

These regulations propose to have OPM accept a request for recovery of an indebtedness from a Federal agency as a valid request only after the agency has (1) certified that it has offered and completed so far as possible, the procedures prescribed by the Federal Claims Collection Standards, 4 CFR Chapter II, Part 102; or (2) notified the debtor of his/her rights and obtained his/her consent to the collection; or (3) obtained a court judgment against the debtor for the amount of the recovery. Payment of the requested amount where there is neither consent nor a court judgment will be delayed further while the debtor is provided notice of OPM's receipt of the agency's request and certification and of our intent to honor the request unless the debtor did not receive the due process which was certified to by the agency. When the debtor denies receiving the due process certified, the agency will have 60 days to submit proof of the required due process. The agency's failure to comply with the prescribed procedures will result in the release of the monies to the debtor in the case of a refund applicant. In the case of an annuity recipient, no action is ever taken against the debtor's annuity until the necessary procedures have been completed. The minimum amount requested for setoff is being raised to $100.00. The cost of complying with Federal Claims Collection Standards and OPM's processing costs make collection of smaller amount impractical. These regulations do not apply to debts of employees of the District of Columbia. E.O. 12291 Federal Regulation.

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Director, Office of Personnel Management, certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

Accordingly, OPM is adding a new Subpart R to Part 831 of Title 5 of the Code of Federal Regulations to read as follows:

PART 831—RETIREMENT

* * * * *

Subpart R—Requests for Recovery of an Indebtedness From the Civil Service Retirement and Disability Fund

Sec.

831.1801 Purpose.
831.1802 Scope.
831.1803 Definitions.
831.1804 When setoff may be requested.
831.1805 Agency processing.
831.1806 OPM processing.
831.1807 Limits on withholding from annuity.

Authority: 5 U.S.C. 8347.

§ 831.1801 Purpose.

This subpart prescribes the procedures to be followed by Federal agencies when they seek to recover an indebtedness owed to the agency by a former employee subject to the Civil Service Retirement law, 5 U.S.C. 8331 *et seq.*, by means of setoff against amounts due and payable to that individual from the Civil Service Retirement and Disability Fund (Fund). This subpart also prescribes the procedures which the Office of Personnel Management shall follow with regard to any such request for setoff of indebtedness.

§ 831.1802 Scope.

This subpart applies to:

(a) Agencies defined by § 831.1803.

(b) Employees defined by § 831.1803.

§ 831.1803 Definitions.

"Agency" shall mean any Executive department, Military department, Government corporation or independent establishment as defined in Chapter I of title 5, United States Code, and the U.S. Postal Service, which is seeking recovery of an indebtedness through set-off against money due and payable to an employee or former employee from the Fund.

"Annuity claim" shall refer to a situation where a former employee has met all requirements for title to annuity under Sections 8336, 8337 or 8338 of title 5, United States Code, and has filed application for a monthly civil service annuity payment.

"Compromise" shall have the same meaning as in 4 CFR Chapter II, Part 103.

"Debtor" means an employee or former employee against whom recovery of an indebtedness through setoff against money due and payable from the Fund is sought by an agency.

"Employee" shall have the same meaning as in Sec. 8331 of title 5, United States Code.

"Fund" means the Civil Service Retirement and Disability Fund.

"Reconsideration" shall have the same meaning as in 4 CFR Chapter II, Part 102.

"Refund claim" shall refer to a situation where a former employee has filed an application under Sec. 8342(a) of title 5, United States Code, for a lump sum credit as defined in Sec. 8331(8) of title 5, United States Code.

"Waiver" shall mean a decision not to recover an overpayment under circumstances specified by the statute authorizing the waiver action.

§ 831.1804 When setoff may be requested.

Money payable from the Fund may be setoff to effect recovery of any valid indebtedness to the United States if all of the following conditions are met:

(a) The employee has been separated.

(b) The debt amounts to $100 or more.

(c) The creditor agency has exhausted all other means of recovery.

(d) The creditor agency has offered and completed the procedures prescribed by 4 CFR Chapter II, Part 102.

(e) The debtor has filed an application for his/her lump sum credit or for a monthly civil service annuity benefit.

§ 831.1805 Agency processing.

(a) If the creditor agency is also the debtor's former employing agency and the employee has just separated from his/her position in the agency, the agency shall submit Standard Form 2806, "Individual Retirement Record" within 30 days of the employee's separation. If a debt exists, a notation shall be made either in column 8 (Remarks) under "Fiscal Record" on the Standard Form 2806 or on an attachment to the Standard Form 2806, indicating that a debt is in existence, the basis for the debt, and the amount, if known.

(b) Every agency which intends to request recovery of indebtedness against a debtor through setoff against money due and payable from the Fund must first issue notice to the debtor as described in 4 CFR Chapter II, Part 102.

(c) The agency may adjudicate the claim of indebtedness solely on the basis of documentary evidence and any written submission submitted by the debtor unless the employee is entitled to a hearing on waiver or another aspect of the claim, and the employee requests a hearing.

(d) If there is entitlement to a hearing, the agency must grant the debtor a hearing under § 102.3 of 4 CFR Chapter II, before the agency can adjudicate the claim of indebtedness.

(e) If the debtor fails to respond to a notice issued under paragrqph (b) of this section, and there is no reason to believe that the debtor has not received the notice, the agency may adjudicate the claim of indebtedness upon evidence already in its possession.

(f) Upon completion of all procedures, the agency shall forward to OPM a certification of the amount of the indebtedness claimed, the basis for the claim, and that the procedures prescribed by 4 CFR Chapter II, Part 102 have been followed by the agency in adjudicating the claim. If the debtor failed to respond to the notice of the proposed action, and there is no reason to believe that the debtor has not received the notice, this fact must also be certified by the agency. Certification shall be made on Standard Form 2805, "Request for Recovery of Indebtedness Due the United States."

(g) If the agency has obtained a court judgment against the debtor specifying the amount of the indebtedness, the agency may submit a copy of the court judgment in place of the additional certification.

(h) If the debtor received the notice and agrees to the collection, the agency shall send a copy of his/her consent to the collection along with the Standard Form 2805.

§ 831.1806 OPM processing.

(a) *Refund claims.* (1) If an agency submits only Standard Form 2806 with a notation of pending adjudication of a claim of indebtedness or Standard Form 2805 without the necessary certification, OPM shall not make any payment to the creditor agency. OPM shall notify the agency that procedures under 4 CFR Chapter II, Part 102 must be completed and received within OPM within 120 days of the date of our notice to the agency. At the request of the agency, one extension of time, of no more than 60 days will be granted by OPM.

(2) during the period allotted the agency for the submission of its claim of indebtedness, OPM shall handle the former employee's request for his/her lump sum credit under Sec. 8342(a) of title 5, United States Code in one of two ways:

(i) If the amount of the indebtedness is known, OPM shall notify the former employee of the claim against his/her lump sum credit, withhold the amount of the indebtedness and pay the balance to the former employee.

(ii) If the amount of the indebtedness is not known, OPM shall not pay any amount to the former employee until the agency submits its Standard Form 2805 with the required certification, or the time limit for the agency submission of the claim expires, whichever comes first.

(b) *Annuity claims.* In the event an incomplete claim of indebtedness is submitted against a former employee who is receiving a monthly civil service annuity, OPM shall take no action to reduce the former employee's monthly annuity in response to the creditor agency's incomplete claim. OPM shall notify the agency that procedures under 4 CFR Chapter II, Part 102 must be completed and received within OPM within 120 days of the date of our notice to the agency. At the request of the agency, one extension of time, of no more than 60 days will be granted by OPM. Failure to supply the certification required within the time period (including any extensions granted by OPM) will preclude the agency from

later seeking recovery by offset of the same debt against the individual's annuity payments.

(c) *Complete claims of indebtedness.* (1) In any case in which the agency has submitted all required certification of the indebtedness and of the procedures, no payment to the agency shall be made for at least 30 days. A copy of all certifications submitted by the agency shall be mailed to the debtor by OPM, along with notice of the intended collection.

(2) When a debtor who has been given notice under paragraph (c)(1) of this section responds to OPM with information that he/she has not been accorded the due process rights as certified by the agency under § 831.1805 of this part, OPM shall suspend any payments to the agency for the period of 60 days. Within that period, the agency must submit to OPM proof that the due process rights certified to were in fact granted to the debtor. Failure to supply such proof will result in a voiding of the agency's certification and release of any suspended funds to the debtor.

(3) If a debtor who is receiving a monthly civil service annuity which has been subjected to setoff informs OPM, after the expiration of the 60-day period set forth in paragraph (c)(2) of this section, that he/she did not receive the due process rights certified under § 831.1805 of this part, further setoff from annuity payments shall be suspended, and the procedures set forth in paragraph (c)(2) of this section shall be followed.

(d) In no case will OPM review—

(1) The merits of any decision by an agency with regard to reconsideration, compromise or waiver; or

(2) The determination by an agency that a hearing was not required in any particular proceeding.

§ 831.1807 Limits on withholding from annuity payments.

(a) Unless the creditor agency and the debtor agree in writing to withhold a larger percentage, or fraud or misrepresentation have been established, no more than twenty-five percent (25%) of the net amount of any monthly annuity payment will be withheld in any setoff action.

(b) A claim of indebtedness may be setoff in full against a lump sum refund payable to the debtor.

[FR Doc. 81-24672 Filed 8-24-81; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 417

Sugarcane Crop Insurance Regulations; Extension of Sales Closing Date

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: Under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extention of the closing date for accepting applications for sugarcane crop insurance in all parishes in Louisiana, effective for the 1982 crop year only. This action is necessary because of a delay in completion of sales agents agreements in that State which could extend beyond the closing date, thereby having an adverse effect on applicants.

EFFECTIVE DATE: August 25, 1981.

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.

SUPPLEMENTARY INFORMATION: Under the provisions of 7 CFR Part 417, Sugarcane Crop Insurance Regulations, the closing date for accepting applications for such insurance in Louisiana parishes, and filing in the FCIC office for the county, is August 31. Because of a delay in completing agents agreements under the agents contract with FCIC to sell sugarcane crop insurance, it is possible that there will not be sufficient time before the August 31 date to allow such agents to properly contact potential policyholders. Under the authority contained in 7 CFR 417.7(b) of the Sugarcane Crop Insurance Regulations, such closing date may be extended by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result during the period of such extention. If adverse conditions should develop during such period, FCIC will immediately discontinue the acceptance of applications.

Accordingly, under the authority contained in 7 CFR 417.7(b), FCIC herewith gives notice that the closing date for accepting applications for sugarcane crop insurance in all Louisiana parishes is hereby extended until the close of business on September 15, 1981, to be effective for the 1982 crop year only.

Done in Washington, D.C., on August 17, 1981.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Wayne A. Fletcher,

President and Acting Chairman of the Corporation.

Dated: August 17, 1981.

[FR Doc. 81-24830 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

7 CFR Part 730

Farm Marketing Quotas and Acreage Allotments; Rice; 1980–81 Marketing Year

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this document is to delete from the Code of Federal Regulations certain regulations regarding rice acreage allotments. The national acreage allotment for rice, as well as the apportionment of such allotments to farms and producers and the State reserves, are published each year in the **Federal Register** and later codified in the Code of Federal Regulations. In order to avoid having to amend the Code of Federal Regulations annually, the proclamation of the national allotment, the apportionment of such allotment to farms and producers, and State reserves will no longer be codified in the Code of Federal Regulations beginning with the 1981 crop, but will be published in the **Federal Register** in the notice section.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Agricultural Program Specialist; USDA/ASCS, Production Adjustment Division, P.O. Box 2415, Washington, D.C. 20013, (202) 447–8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures required by Executive Order 12291, and has been classified "not major." It has been determined that this deletion of these regulations from the Code of Federal Regulations will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government

agencies, or geographic regions; or, (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this final rule applies to are: Title: Rice Production Stabilization; Number 10.065, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local Government are informed of this action.

I have determined that it is impracticable to follow the public rulemaking requirements of Secretary's Memorandum 1955 and 5 U.S.C. 553 with respect to this rule since this action makes no substantive change but deletes the proclamation of the national acreage allotment for rice, the apportionment of such allotments to farms, and producers, and the State reserves which were previously published in the Code of Federal Regulations. Previously, the proclamation of the national acreage allotment for rice, the apportionment of such allotment to farms and producers, and the State reserve were published in the **Federal Register** and codified in the Code of Federal Regulations. Effective with respect to the 1981 crop of rice, such proclamations and determinations will appear only as notices in the **Federal Register**. The regulations previously published at 7 CFR 730.1502-730.1504 relating to these proclamations and determinations shall remain applicable to the marketing year to which each refers.

Final Rule

PART 730 [AMENDED]

Accordingly, the following portions of 7 CFR Part 730 are hereby deleted fron the Code of Federal Regulations:

Subpart—1980-1981 Marketing Year, Proclamations and Determinations with respect to Marketing Quota and National Acreage Allotment for 1980 Crop Rice, and Apportionment of 1980 National Acreage Allotment of Rice Among the Several States; Section 730.1502, National acreage allotment for the 1980 crop of rice; Section 730.1503 Apportionment of the 1980 national acreage allotment of rice to farms and producers; and Section 730.1504, State reserve acreages.

Signed at Washington, D.C. on August 20, 1981.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-24702 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Parts 907, 908 and 910

Navel Oranges, Valencia Oranges and Lemons Grown in Arizona and California; Handling Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations governing the exemption of the handling of California-Arizona Navel oranges, Valencia oranges and lemons for commercial processing into by-products. This action is designed to clarify the basis for such exemption and specify safeguards to prevent oranges and lemons shipped under exemption from entering regulated fresh markets.

DATES: Amendments to §§ 907.100 and 907.131 become effective September 24, 1981. Amendments to §§ 908.100, 908.131, and 910.180 become effective August 25, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

On January 19, 1981, notice was published in the **Federal Register** (46 FR 4936) inviting written comments on proposed amendment of the rules and regulations (Subpart—Rules and Regulations; §§ 907.100-907.166, and §§ 908.100-908.142) currently effective under the marketing agreements, as amended, and Order Nos. 907 and 908, as amended (7 CFR Parts 907 and 908), regulating the handling of Navel oranges and Valencia oranges grown in Arizona and designated parts of California. The notice provided that comments be submitted by February 3, 1981. None were received.

On January 30, 1981, notice was published in the **Federal Register** (46 FR 9956) inviting written comments on proposed amendment of the rules and regulations (Subpart—Rules and Regulations; §§ 910.100-910.180) currently effective under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The notice provided that comments be submitted by February 17, 1981. None were received. These marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These amendments are based upon recommendations and information submitted by the Navel Orange Administrative Committee, the Valencia Orange Administrative Committee and the Lemon Administrative Committee, established under these marketing orders, and other information.

These amendments are necessary to prevent oranges and lemons shipped under marketing order exemption provisions from entering into commerical channels of trade, and are designed to clarify criteria by which the committee determines eligibility for exemption. Under the amended rules and regulations, applicants who desire to acquire oranges and lemons for commerical processing into by-products would need to provide specified information relating to their manufacturing operations and the intended disposition of the oranges and lemons, and have their names placed on the list of "approved by-products manufacturers" by the committee.

After consideration of all relevant matters presented, including the proposals in the notices and other available information, it is hereby found that amendment of said rules and regulations is in accordance with these marketing agreements and orders and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of the amendments to §§ 908.100, 908.131, and 910.180 until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) the handling of Valencia oranges and lemons is now in progress subject to regulated weekly allotment provisions of the orders, (2) the recommendations of the committees were made at public meetings at which all interested parties were afforded an opportunity to express their views, (3) no objections were received about the terms of the amendments in response to the notices published in the **Federal**

Register, and (4) the amendments will not require any special preparation by handlers which cannot be completed by the effective time.

Information collection requirements (reporting or recordkeeping) under these parts are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Therefore, 7 CFR Part 907; Subpart—Rules and Regulations, is amended by revising paragraph (d) of § 907.100, by removing current paragraph (a)(2) and redesignating current (a)(3) as (a)(2) in § 907.131, and by revising paragraph (b) of § 907.131 to read as follows:

§ 907.100 Definitions.

* * * * *

(d) "Handle oranges to commercial processors for processing into products, including juice" means the handling of oranges to a person on the list of approved by-product manufacturers, as provided in § 907.131(b).

* * * * *

§ 907.131 By-product oranges.

(a) *Notice to committee.* No person shall handle oranges for commerical processing into by-products unless (1) such oranges are, or have been, handled pursuant to an allotment therefor; or (2) the processor is an approved by-product manufacturer, as prescribed in paragraph (b) of this section.

(b) *Approved by-products manufacturer.* (1) Any person who desires to acquire oranges as an approved by-products manufacturer for commercial processing into by-products exempt from regulation pursuant to § 907.67(b) must first apply to and obtain approval from the committee. Applicants for such exemption shall submit to the committee an application on NOAC Form No. 14 containing the following information: (i) The name and address of applicant; (ii) the proposed type of by-product(s) to be made or derived from oranges; (iii) the approximate quantity of oranges to be used annually; (iv) a description of the by-product(s) to be manufactured and the equipment to be used in manufacturing such by-products and the capacity per hour thereof; (v) the intended disposition of unused components of the oranges; (vi) a statement describing the manner in which the by-product(s) will be sold, whether at wholesale, retail, or both; (vii) a statement whether orange juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished; (viii) the location of the plant(s); (ix) a statement that the exempt oranges acquired hereunder will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels; and (x) an agreement to submit such reports as may be required by the committee.

(2) Such application shall be referred to the committee's Compliance Department for investigation and reported back to the committee. The committee shall approve the application if, in its opinion: (i) The applicant's principal occupation is manufacturing food by-products, including orange by-products, except those applicants providing oranges or by-products for animal feeding purposes; (ii) all orange by-products, including juice, will be sold at wholesale only or will be used for animal feeding; (iii) the applicant agrees to submit such reports as may be required by the committee; (iv) the oranges obtained under this exemption will not be resold or disposed of in fresh fruit channels; and (v) approval of the application will not be contrary to the purposes of this part. If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the facts and reasons therefor, and afford the applicant an opportunity, either orally or in writing, to present opposing facts and reasons. If the application is approved, the applicant's name shall be placed on the list of approved by-products manufacturers. The applicant shall be informed of the committee's determination in a timely manner.

(3) A commercial processor on the list of approved by-products manufacturers who: (i) Fails to commercially process oranges into by-products for a period of one year or more; (ii) sells or otherwise disposes of any orange by-product(s) manufactured from oranges at the retail level other than for animal feeding; (iii) sells or otherwise disposes of oranges obtained under this exemption in fresh fruit channels; (iv) fails or refuses to submit reports required by the committee, may be determined by the committee to be ineligible to acquire oranges under this exemption and the committee may suspend or remove its name from the list of approved by-products manufacturers for such time as the committee deems appropriate in the circumstances. Prior to making such determination the committee shall give the processor reasonable advance notice in writing of its intention, the facts and reasons therefor; and afford the processor an opportunity, either orally or in writing, to present opposing facts and reasons. After a processor's name has been removed from the list of approved by-products manufacturers, it must submit a new application and secure approval of the committee in order to acquire exempt oranges pursuant to § 907.67(b).

* * * * *

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Therefore, 7 CFR Part 908; Subpart—Rules and Regulations, is amended by revising paragraph (d) of § 908.100, by removing current paragraph (a)(2) and redesignating current (a)(3) as (a)(2) in § 908.131, and by revising paragraph (b) of § 908.131 to read as follows:

§ 908.100 Definitions.

* * * * *

(d) "Handle oranges to commercial processors for processing into products, including juice" means the handling of oranges to a person on the list of approved by-product manufacturers, as provided in § 908.131(b).

* * * * *

§ 908.131 By-product oranges.

(a) *Notice to committee.* No person shall handle oranges for commercial processing into by-products unless (1) such oranges are, or have been, handled pursuant to an allotment therefor; or (2) the processor is an approved by-product manufacturer, as prescribed in paragraph (b) of this section.

(b) *Approved by-products manufacturer.* (1) Any person who desires to acquire oranges as an approved by-products manufacturer for commercial processing into by-products exempt from regulation pursuant to § 908.67(b) must first apply to and obtain approval from the committee. Applicants for such exemption shall submit to the committee an application on VOAC Form No. 14 containing the following information: (i) The name and address of applicant; (ii) the proposed type of by-product(s) to be made or derived from oranges; (iii) the approximate quantity of oranges to be used annually; (iv) a description of the by-product(s) to be manufactured and the equipment to be used in manufacturing such by-products and the capacity per hour thereof; (v) the

intended disposition of unused components of the oranges; (vi) a statement describing the manner in which the by-product(s) will be sold, whether at wholesale, retail, or both; (vii) a statement whether orange juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished; (viii) the location of the plant(s); (ix) a statement that the exempt oranges acquired hereunder will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels; and (x) an agreement to submit such reports as may be required by the committee.

(2) Such application shall be referred to the committee's Compliance Department for investigation and reported back to the committee. The committee shall approve the application if, in its opinion: (i) The applicant's principal occupation is manufacturing food by-products, including orange by-products, except those applicants providing oranges or by-products for animal feeding purposes; (ii) all orange by-products, including juice, will be sold at wholesale only or will be used for animal feeding; (iii) the applicant agrees to submit such reports as may be required by the committee; (iv) the oranges obtained under this exemption will not be resold or disposed of in fresh fruit channels; and (v) approval of the application will not be contrary to the purposes of this part. If an application is denied the committee shall within a reasonable time inform the applicant in writing of the facts and reasons therefor, and afford the applicant an opportunity, either orally or in writing, to present opposing facts and reasons. If the application is approved, the applicant's name shall be placed on the list of approved by-products manufacturers. The applicant shall be informed of the committee's determination in a timely manner.

(3) A commercial processor on the list of approved by-products manufacturers who: (i) Fails to commercially process oranges into by-products for a period of one year or more; (ii) sells or otherwise disposes of any orange by-product(s) manufactured from oranges at the retail level other than for animal feeding; (iii) sells or otherwise disposes of oranges obtained under this exemption in fresh fruit channels; (iv) fails or refuses to submit reports required by the committee, may be determined by the committee to be ineligible to acquire oranges under this exemption and the committee may suspend or remove its name from the list of approved by-products manufacturers for such time as the committee deems appropriate in the circumstances. Prior to making such determination the committee shall give the processor reasonable advance notice in writing of its intention, the facts and reasons therefor, and afford the processor an opportunity, either orally or in writing, to present opposing facts and reasons. After a processor's name has been removed from the list of approved by-products manufacturers, it must submit a new application and secure approval of the committee in order to acquire exempt oranges pursuant to § 908.67(b).

* * * * *

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

3. Therefore, paragraph (b) of § 910.180 (7 CFR Part 910; Subpart — Rules and Regulations) is revised to read as follows:

§ 910.180 Lemons not subject to regulation.

* * * * *

(b) *Approved by-products manufacturer.* (1) Any person who desires to acquire lemons as an approved by-products manufacturer for commercial processing into by-products, pursuant to § 910.80, must first apply to and obtain approval from the committee. Applicants for such exemption shall submit to the committee an application on LAC Form No. 104 containing the following information: (i) The name and address of applicant; (ii) the proposed type of by-product(s) to be made or derived from lemons; (iii) the approximate quantity of lemons to be used annually; (iv) a description of the product(s) to be manufactured and the equipment to be used in manufacturing such by-products and the capacity per hour thereof; (v) the intended disposition of unused components of the lemons; (vi) a statement describing the manner in which the by-product(s) will be sold, whether at wholesale, retail, or both; (vii) a statement whether lemon juice will be pasteurized and, if so, a description of the manner in which such pasteurization will be accomplished; (viii) the location of the plant(s); (ix) a statement that the lemons acquired hereunder will be used for by-products manufacturing only and will not be resold or disposed of in fresh fruit channels; and (x) an agreement to submit such reports as may be required by the committee. (2) Such application shall be referred to the committee's Compliance Department for investigation and reported back to the committee. The committee shall approve the application if, in its opinion: (i) The applicant's principal occupation is manufacturing food by-products, including lemon by-products; (ii) all lemon by-products, including juice, will be sold at wholesale only; (iii) the applicant agrees to submit such reports as may be required by the committee; (iv) the lemons obtained under this exemption will not be resold or disposed of in fresh fruit channels; and (v) approval of the application will not be contrary to the purposes of this part. If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the facts and reasons therefor, and afford the applicant an opportunity, either orally or in writing, to present opposing facts and reasons. If the application is approved, the applicant's name shall be placed on the list of approved by-products manufacturers. The applicant shall be informed of the committee's determination in a timely manner. (3) A commercial processor on the list of approved by-products manufacturers who: (i) Fails to commercially process lemons into by-products for a period of one year or more; (ii) sells or otherwise disposes of any lemon by-products manufactured from lemons at the retail level; (iii) sells or otherwise disposes of lemons obtained under this exemption in fresh fruit channels; (iv) fails or refuses to submit reports required by the committee, may be determined by the committee to be ineligible to acquire lemons under this exemption and the committee may suspend or remove its name from the list of approved by-products manufacturers for such time as the committee deems appropriate in the circumstances. Prior to making such determination the committee shall give the processor reasonable advance notice in writing of its intention, the facts and reasons therefor; and afford the processor an opportunity, either orally or in writing, to present opposing facts and reasons. After a processor's name has been removed from the list of approved by-products manufacturers, it must submit a new application and secure approval of the committee in order to acquire exempt lemons pursuant to § 910.80.

* * * * *

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

Dated: August 20, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-24676 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dexamethasone Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Carter-Glogau Laboratories, Inc., providing for safe and effective use of a dexamethasone injection in dogs for its anti-inflammatory effect and for supportive therapy.

EFFECTIVE DATE: August 25, 1981.

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

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories, Inc., 5160 W. Bethany Home Rd., Glendale, AZ 85301, filed an NADA (110–350) providing for intravenous (IV) injection in dogs of a solution containing 2 milligrams of dexamethasone per milliliter (mg/mL). The drug is indicated as an anti-inflammatory agent and may also be used as supportive therapy for certain other conditions. The firm currently holds approval for IV use of a 4-mg/mL dexamethasone sodium phosphate injection in dogs for the same indications.

The formulation of the subject product is identical to that of Schering Corp.'s dexamethasone sterile injection, the approval of which is codified in 21 CFR 522.540. The section provides that since the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include certain effectiveness data as specified by 21 CFR 514.111. The product is an IV solution; therefore, the requirement for bioequivalency data is waived under 21 CFR 320.22(b)(1). The product is approved on the basis of generic equivalency, and the regulation is amended appropriately.

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

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

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.540 by revising paragraph (b)(2)(ii) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(b) * * *

(2) * * *

(ii) No. 000381 for use of 2.0 milligrams dexamethasone or 4.0 milligrams dexamethasone sodium phosphate injections.

* * * * *

Effective date. This amendment is effective August 25, 1981.

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

Dated: August 14, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-24518 Filed 8-24-81; 8:45 am]

BILLING CODE 4110-03-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 220

Personnel; Foreign Service

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: The Agency for International Development is amending the regulations to provide two exceptions to the general rule that a vacant position designated Foreign Service may only be filled by Foreign Service employees. The first exception is to avoid a reduction in force of non-Foreign Service employees. The second exception would allow up to 15 Foreign Service-designated positions to be occupied by non-Foreign Service employees on a time-limited appointment basis.

EFFECTIVE DATE: August 5, 1981.

FOR FURTHER INFORMATION CONTACT: Jan W. Miller, Office of the General Counsel, (202) 632–8218.

SUPPLEMENTARY INFORMATION: The purpose of parts 220, 221 and 222 is to extend the Foreign Service personnel system to all employees of the Agency for International Development ("AID") who are responsible for planning and implementing AID's overseas development programs and activities. Section 220.04(c) currently provides that a position designated as a Foreign Service position which becomes vacant may be occupied only by a Foreign Service employee; provided, however, that at any time when the number of non-Foreign Service employees filling positions in AID'S headquarters office in the United States which are designated as Foreign Service positions does not exceed 10 per centum of the number of such positions, a Foreign Service designated position may be filled by a non-Foreign Service employee. This rule would amend § 220.04(c) to add two more exceptions with respect to the filling of Foreign Service positions.

Regulatory Flexibility Act

The agency has determined that this final rule will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Rule Making Under the Administrative Procedure Act

This rule is not a rule under 5 U.S.C. 553 since it involves a matter relating to agency personnel.

Executive Order 12291

This rule is not a rule for purposes of Executive Order 12291 since it amends regulations related to agency personnel.

Accordingly, § 220.04 of Part 220 of Chapter II of Title II of the Code of Federal Regulations is amended to read as set forth below:

1. The authority citation for Part 220 reads as follows:

Authority: Section 401, International Development and Food Assistance Act of 1978, Pub. L. 95–424, 92 Stat. 956, as amended by section 503, International Development

Cooperation Act of 1979, Pub. L. 96–53, 93 Stat. 1378.

2. Section 220.04, paragraph (c) is revised to read as follows:

§ 220.04 Position management.

* * * * *

(c) A position designated as a Foreign Service position in accordance with paragraph (b) of this section which becomes vacant may be occupied thereafter only by a Foreign Service employee: Provided, however, that

(1) At any time when the number of non-Foreign Service employees filling positions in AID's headquarters office in the United States which are designated as Foreign Service positions does not exceed 10 per centum of the number of such positions, such a position, when it becomes vacant, may, at the discretion of the Administrator be filled by a non-Foreign Service employee;

(2) In order to avoid a reduction in force, the director of the Office of Personnel Management, AID, is authorized to assign a General Schedule employee to a vacant position which has been designated as a Foreign Service position;

(3) Up to fifteen Foreign Service designated positions may be filled on a time-limited appointment basis by non-Foreign Service personnel. These exceptions will be approved personally by the Administrator on a case-by-case basis.

* * * * *

Dated: August 14, 1981.

Edna A. Boorady,

Director, Office of Personnel Management.

[FR Doc. 81-24665 Filed 8-24-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule revising its Paroling Policy Guidelines, 28 CFR 2.20 published on July 14, 1981, at 46 FR 36138.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–20569, July 14, 1981, page 36139, third column, the word "sale" was omitted from the opiate offense example in the Greatest II category. This example is corrected to read:

§ 2.20 [Corrected]

Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram (1000 grams) of 100% pure heroin or equivalent amount)]

Dated: August 19, 1981.

Benjamin J. Malcolm,

Acting Chairman, U.S. Parole Commission.

[FR Doc. 81-24755 Filed 8-24-81; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule on Regional Appeal, 28 CFR 2.25, published on July 10, 1981 at 46 FR 35639.

EFFECTIVE DATE: September 1, 1981.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–20279, July 10, 1981, page 35639, third column, 28 CFR 2.25(b), the words "or reverse" were omitted in the first sentence. This subsection is corrected to read as follows:

§ 2.25 Regional appeals.

(a) * * *

(b) The Regional Commissioner may affirm the decision, order a new institutional hearing on the next docket, order a regional appellate hearing, or reverse or modify the decision. The following actions, whether based on the record or following a regional appellate hearing, require the concurrence of two out of three Regional Commissioners:

* * * * *

Dated: August 19, 1981.

Benjamin J. Malcolm,

Acting Chairman, U.S. Parole Commission.

[FR Doc. 81-24754 Filed 8-24-81; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule revising its salient factor score published on July 10, 1981 at 46 FR 35637.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–20266, July 10, 1981, page 35638, second column, the date in the first sentence of the implementation section is incorrectly listed as "September 1, 1981." This date is corrected to "August 31, 1981."

Dated: August 19, 1981.

Benjamin J. Malcolm,

Acting Chairman, U.S. Parole Commission.

[FR Doc. 81-24756 Filed 8-24-81; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Correction

AGENCY: Parole Commission, Justice.

ACTION: Correction to final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule published on January 16, 1979 (44 FR 3408) relating to paroling, recommitting and supervising Federal prisoners.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–1343 published on January 16, 1979, the Commission omitted a conforming amendment to 28 CFR 2.48(c) when the subsections of 28 CFR 2.50 were renumbered changing 28 CFR 2.50(e) to 28 CFR 2.50(d). This omission is corrected by changing the reference to 28 CFR 2.50(e) in 28 CFR 2.48(c) to 28 CFR 2.50(d).

Dated: August 19, 1981.

Benjamin J. Malcolm,

Acting Chairman, U.S. Parole Commission.

[FR Doc. 81-24803 Filed 8-24-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Nevada State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves the completion of several developmental and State-initiated changes under the State of Nevada's occupational safety and health plan. The changes include Rules of Occupational Safety and Health Recordkeeping Requirements (Rule 67), Rules of Procedures of Occupational Safety and Health Review Board (Rules 60–66), Rules of Practice for Variances (Rule 69), Rules for Inspections, Citations, and Proposed Penalties (Rule 68), Public Employee Program, Public Employer Poster, Legislation, and the Field Operations Manual (FOM).

EFFECTIVE DATE: August 13, 1981.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Office of State Programs, Occupational Safety and Health Administration, Room N–3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–6021.

SUPPLEMENTARY INFORMATION:

Background

The Nevada occupational safety and health plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on December 28, 1973 (39 FR 1008). Under the plan, the State made commitments to complete certain developmental steps by January 1, 1977. Part 1953 of this Chapter provides procedures for the review and approval of State-initiated and developmental change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Plan Supplements

1. *Rules of Occupational Safety and Health Recordkeeping Requirements (Rule 67):*

On September 16, 1976, the State of Nevada submitted a supplement to its plan on Rules of Occupational Safety and Health Recordkeeping Requirements. These regulations are comparable to Part 1904 of this Chapter, the Federal regulations on reporting and recordkeeping. The regulations were revised and the final version became effective on January 9, 1981.

2. *Rules of Procedures of Occupational Safety and Health Review Board (Rules 60–66):*

On June 24, 1975, the State submitted a supplement to its plan on Rules of Procedures of Occupational Safety and Health Review Board. These regulations are comparable to Part 2200 of this Chapter, the Federal Rules of Procedure of the Occupational Safety and Health Review Commission. The regulations were revised and the final version became effective on January 9, 1981.

3. *Rules of Practice for Variances (Rule 69):*

On June 24, 1975, the State submitted a supplement to its plan on Rules of Practice for Variances which is comparable to Part 1905 of this Chapter, the Federal regulations on variances. The regulations were revised and the final version became effective on January 9, 1981.

4. *Rules for Inspections, Citations and Proposed Penalties (Rule 68):*

On June 24, 1975, the State submitted a supplement to its plan on Rules for Inspection, Citations, and Proposed Penalties which is comparable to Part 1903 of this Chapter, the Federal regulations on enforcement. The regulations were revised and the final version became effective on January 9, 1981.

5. *Public Employee Program:*

On June 24, 1975, the State submitted a supplement to its plan on the Public Employee Program. State legislation includes provisions for public employees that are as effective as those for private employees. These provisions parallel those of the Federal Act. State legislation also established a comprehensive voluntary compliance program for employers of the public sector. The program's provisions include:

1. Development of a Nevada Department of Occupational Safety and Health (DOSH) program for enforcement in the public sector.

2. Development of a safety plan for public employers to include a program of self-administration and voluntary compliance with OSHA standards in cooperation with DOSH.

DOSH will conduct inspections of both the public and private employers using the same criteria in regard to format. The primary differences between a public employer and a private employer are as follows:

1. Penalties are proposed to public employers for serious violations only. Penalties will be calculated using the same formula as is used for private employers with one exception. To avoid a problem as to whether responsibility is department-wide, division-wide or divided by sections, credit for size will be based on the number of employees frequently exposed to a violation.

2. Any hazard which has been identified by a public employer and for which abatement has been scheduled will be included in the citation; however, the abatement date may be as suggested by the employer.

6. *Public Employer Poster:*

On May 13, 1976, the State submitted a supplement to its plan on the Public Employer Poster. It was subsequently resubmitted to cover both public and private workplaces in the State. The Private Employer Poster was approved on December 14, 1977 (42 FR 64626, December 27, 1977).

Among other things, the poster contains provisions notifying employees of their obligations and protections under the Nevada Occupational Safety and Health Act, their right to request workplace inspections and their right to remain anonymous, and their right to file complaints with the Occupational Safety and Health Administration concerning the administration of the State program. The poster also informs private employees of their protection against discharge and discrimination under both Federal and State laws for the exercise of their rights under these laws and informs public employees of this same right under State law only.

7. *Legislation:*

Amendments to the State's legislation were enacted on May 17, 1975, and became effective on July 1, 1975. The revised statute as submitted on June 24, 1975 and includes:

1. Establishment of a six-month time limit for temporary standards (N.R.S. 618.295);

2. The requirement that employers notify employees or former employees of their exposure to toxic materials (N.R.S. 618.625);

3. The strengthening of provisions for enforcing and prosecuting cases involving discrimination against employees for exercising their rights under the plan (N.R.S. 618.445);

4. Amendment of the definition of employer to remove the possibility that sanctions could be imposed against supervisory employees (N.R.S. 618.095);

5. Provisions to allow the review board to issue orders to protect the confidentiality of trade secrets (N.R.S. 618.365).

Subsequent amendments were adopted in the 1977 legislative session and became effective on July 1, 1977. They include:

1. Clarification of the jurisdictional boundaries of the Department of Occupational Safety and Health (N.R.S. 618.315);

2. Clarification of permanent and temporary variances and the criteria to be met in applying for each (N.R.S. 618.415).

8. *Field Operations Manual (FOM):*

On June 24, 1975, the State submitted its Field Operations Manual, which structures the procedures used by

Compliance Officers. Subsequently, the FOM was revised to include changes in the Nevada program and to reflect those made in the Federal FOM through March 1981.

Issues

Review of the legislation revealed two issues which needed to be resolved prior to approval of the supplement. The first issue concerns the criteria for temporary and permanent variances. The Nevada legislation (N.R.S. 618.415) allows for temporary variances from other than new standards as well as for temporary variances from new standards (N.R.S. 618.419). In the Federal program, temporary variances are allowed only if an employer cannot comply with a new standard by its effective date. According to both the Federal and State laws, approval of a permanent variance requires that an employer provide for his employees an alternate means of protection equivalent to that afforded by the standard. Approval of a temporary variance requires only that the employer provide interim protection for his employees while coming into compliance with the standard. The Nevada provision requiring only interim protection for temporary variances from other than new standards was found to be less effective than the Federal legislation. The State has corrected this problem by specifying in its variance regulations (Rule 69.090) that any variance granted under N.R.S. 618.415 must meet the requirements for permanent variances, including the requirement that the alternative practices used must provide employment as safe and healthful as those provided by the standard.

The second issue concerns the confidentiality of the names of employees who make witness statements during inspections and investigations. The Nevada legislation (N.R.S. 618.367) provides that an employer is entitled to access to records in the possession of the Department of Occupational Safety and Health which concern the employer, with the exception of the names of employees who have submitted complaints and requested anonymity. On the Federal level, the names of employees who have made witness statements during inspections and investigations are also kept confidential. It is felt that this is necessary to allow employees to discuss working conditions freely without fear of retaliation. This procedure has been upheld by the District Court of the District of Columbia in "T.V. Towers, Inc. v. Marshall" 444 F. Supp. 1233 (1978). Therefore, the Nevada provision, which did not ensure anonymity for employees who made statements, was found to be less effective than the Federal provision. The State has corrected this problem by including in its enforcement regulations (Rule 68.110) a provision that the name of any employee who provides information will be held confidential unless the employee is called to testify in an administrative or judicial hearing.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business at the following locations: Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3613, 200 Constitution Avenue, NW, Washington, D.C. 20210; Regional Administrator, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102, and Department of Occupational Safety and Health, Nevada Industrial Commission, Room 311, 515 East Musser Street, Carson City, Nevada 89701.

Public Participation

A notice was published on March 26, 1976 (41 FR 12716) announcing the submission of the 1975 Legislation, Field Operations Manual (FOM), Rules of Procedures of Occupational Safety and Health Review Board, Rules of Practice for Variances, and the Public Employee Program. Interested persons were afforded thirty days to submit written comments or request a hearing concerning the supplements. No public comments or requests for a hearing were received.

With regard to the remaining changes, under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review or for other good causes consistent with applicable law. The Assistant Secretary finds that these changes are consistent with Federal requirements and with commitments contained in the plan and previously made available for public comment. Therefore, further public comment and notice is unnecessary.

Decision

PART 1952 APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Nevada plan changes described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and the implementing regulations applicable to State plans generally. Accordingly, 29 CFR 1952.294 is hereby amended by adding new paragraphs (g) through (l) to read as follows:

§ 1952.294 Completed developmental steps.

* * * * *

(g) Regulations concerning the Rules of Occupational Safety and Health Recordkeeping Requirements were submitted on September 16, 1976, revised effective January 9, 1981, and approved by the Assistant Secretary on August 13, 1981.

(h) Regulations concerning the Rules of Procedures of Occupational Safety and Health Review Commission; Rules of Practice for Variances; and Rules for Inspections, Citations, and Proposed Penalties were submitted on June 24, 1975, revised effective January 9, 1981, and approved by the Assistant Secretary on August 13, 1981.

(i) Regulations concerning the Public Employee Program were submitted on June 24, 1975, revised effective February 15, 1979, and approved by the Assistant Secretary on August 13, 1981.

(j) In accordance with the requirements of § 1952.10, the revised poster was submitted on April 7, 1980, and approved by the Assistant Secretary on August 13, 1981.

(k) Amendments to the State's legislation were submitted on June 24, 1975 and July 1, 1977, became effective on July 1, 1975 and July 1, 1977, and approved by the Assistant Secretary on August 13, 1981.

(l) The Nevada Field Operations Manual was submitted on June 24, 1975, revised to reflect those changes made in the Federal Field Operations Manual through March, 1981, and approved by the Assistant Secretary on August 13, 1981.

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

Signed at Washington, D.C., this 13th day of August, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-24757 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Certification of Completion of Developmental Steps for Nevada State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: Nevada on or before January 1, 1977, submitted documentation

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

EFFECTIVE DATE: August 13, 1981.

FOR FURTHER INFORMATION CONTACT:

Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N–3613, Washington, D.C. 20210 (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. A State must first submit its plan for an initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State's submission, determines that the plan satisfies or will satisfy the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with concurrent enforcement by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. As provided at 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

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

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

On January 4, 1974, a notice was published in the **Federal Register** (39 FR 100 8) of initial approval of the developmental Nevada plan and the adoption of Subpart W of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three-year period ending January 1, 1977, following commencement of State operations (three years from the date of the State's first 23(g) grant award), Ralph Langley, former Director of the Nevada Department of Occupational Safety and Health, Nevada Industrial Commission, submitted documentation attesting to the completion of each State developmental commitment for review and approval, as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Nevada developmental steps.

Completion of Developmental Steps

1. All developmental steps specified in the January 4, 1974 notice of initial approval have been completed as follows: (a) Regulations concerning recording and reporting of occupational injuries and illnesses were submitted on September 16, 1976, and subsequently revised on January 9, 1981. They were approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(b) Regulations concerning the Occupational Safety and Health Review Board, Variances, Inspections, Citations and Proposed Penalties were submitted on June 24, 1975, and subsequently revised on January 9, 1981. They were approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(c) Regulations concerning the Public Employee Program were submitted on June 24, 1975, and were subsequently revised on February 15, 1979. They were approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(d) The State poster notifying public employers and employees of their protections and obligations under the Nevada plan was submitted on May 13, 1976. It was subsequently re-submitted on April 7, 1980, to cover both public and private workplaces in the State. The poster was approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(e) Legislative amendments required to bring the Nevada occupational safety and health law (Nevada Revised Statutes, Chapter 618) into conformity with Federal requirements were enacted effective July 1, 1975 and July 1, 1977. They were approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(f) Occupational safety and health standards have been promulgated and subsequently amended to reflect changes in the Federal standards and were approved by the Regional Administrator for Occupational Safety and Health on February 26, 1976 (41 FR 8955, March 2, 1976), April 23, 1976 (41 FR 23223, June 15, 1976), June 10, 1977 (42 FR 38026, July 26, 1977), and June 20, 1979 (44 FR 63165, November 2, 1979). The adoption of initial standards was approved as a completed developmental step on December 14, 1977 (42 FR 64626, December 27, 1977). In addition, State standards comparable to Federal standards through March, 1981 have been adopted.

(g) The State's original Field Operations Manual (FOM) was approved with the State plan. On June 24, 1975, the State submitted revisions to the manual to reflect changes in the Federal Manual and in the Nevada

program. Subsequently, the FOM was revised for changes through March, 1981. These revisions were approved by the Assistant Secretary on August 13, 1981, as set out elsewhere in this issue.

(h) Procedures concerning a separate and autonomous on-site consultation program were submitted on July 1, 1975 and were approved by the Assistant Secretary on February 26, 1976 (41 FR 8955, March 2, 1976).

(i) Procedures concerning the Nevada health program were submitted on July 22, 1975 and were approved by the Assistant Secretary on December 14, 1977 (42 FR 64626, December 27, 1977).

(j) Initial training of Nevada personnel was completed. A report was submitted on November 26, 1975 and was approved by the Assistant Secretary on December 14, 1977 (42 FR 64626, December 27, 1977).

(k) Nevada's participation in the Bureau of Labor Statistics annual survey of occupational injuries and illnesses began on July 19, 1976 and was approved by the Assistant Secretary on December 14, 1977 (42 FR 64626, December 27, 1977).

2. The personnel operations of the Nevada Industrial Commission have been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Office of Personnel Management. The State also has an affirmative action plan which has been found acceptable by the Office of Personnel Management by a letter dated June 19, 1980.

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

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the approved supplements along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room N-3613, 200 Constitution Avenue, NW, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 11321, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; Nevada Department of Occupational Safety and Health, Nevada Industrial Commission, Room 311, 515 East Musser Street, Carson City, Nevada 89701.

Effect of Certification

The Nevada plan is certified effective August 13, 1981, as having completed all developmental steps on or before January 1, 1977. This certification attests to structural completion, but does not render judgment on adequacy of performance.

The Nevada occupational health and safety program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program of enforcement including the requirement set out in "AFL-CIO v. Marshall" cited above. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issues covered by the plan pursuant to Section 18(e) of the Act.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. However, exercise of Federal enforcement authority will continue generally to be limited at this time to enforcement in those issues not covered by the State plan, response to 11(c) discrimination complaints as appropriate, enforcement of new Federal standards if necessary and responses to emergency or unusual situations. The level of Federal enforcement may from time to time be reconsidered.

PART 1952 APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification, 29 CFR § 1952.294 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (m) as follows:

§ 1952.294 Completion of developmental steps and certification.

* * * * *

(m) In accordance with § 1902.34 of this chapter, the Nevada occupational safety and health plan was certified, effective August 13, 1981, as having completed all developmental steps specified in the plan as approved on December 28, 1973, on or before January 1, 1977. This certification attests to structural completion, but does not render judgment on adequacy of performance.

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

Signed at Washington, D.C. this 13th day of August, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-24759 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Approval of Supplements to Virgin Islands State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice announces the approval of three State plan supplements that update the Virgin Islands' regulation, Recordkeeping and Reporting Occupational Injuries and Illnesses.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: John Smith/Dorothy J. Johnson, Project Officers, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3619, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8081.

SUPPLEMENTARY INFORMATION:

Background

The Virgin Islands' Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this Chapter on September 11, 1973 (38 FR 24896). Part 1953 of this Chapter provides procedures for the review and approval of change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of the Plan Supplements

In a letter dated June 29, 1981, the Regional Administrator for Region II submitted three supplements which pertain to the Virgin Islands' regulation, Recordkeeping and Reporting Occupational Injuries and Illnesses. The

supplements revise the following areas of the subject regulation: Definitions, Period Covered, Annual Summary, Access to Records, Recordkeeping Under Federal Regulations, Log of Occupational Injuries and Illnesses, Small Employers, Establishments, and Petitions for Recordkeeping Exception.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at these locations: Office of State Programs, Occupational Safety and Health Administration, Room N-3619, 200 Constitution Avenue, NW., Washington, D.C., 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Department of Labor, Occupational Safety and Health Division, Building No. 1, Second Floor, Government Complex, Room 207, Lagoon Street, Frederiksted, St. Croix, Virgin Islands 00840.

Public Participation

Under § 1953.2 of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Virgin Islands' plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

Decision

PART 1952 APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Virgin Islands' plan supplements described above are hereby approved under 29 CFR, Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

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

Signed at Washington, D.C., this 18th day of August, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-24756 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Personal Privacy and Rights of Individuals Regarding Personal Records; Exemptions

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: As proposed on June 26, 1981, the Department of the Army hereby deletes exemption rules for systems of records A0228.01DAMH, entitled: "Historian's Background Material" and A0726.04aDAAG, entitled: "Casualty Case Files."

DATE: This final rule is effective August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, telephone 703/325-6163.

SUPPLEMENTARY INFORMATION: System of records A0228.01DAMH no longer requires exemptions from the Privacy Act of 1974 Title 5 United States Code Section 552a(Pub. L. 93-579; 88 Stat. 1896). System of records A0726.04aDAAG was deleted effective July 4, 1981 in FR Doc. 81-16678 (46 FR 29981). This action was published as proposed rulemaking on June 26, 1981 in FR Doc. 81-19070 (46 FR 33057).

§ 505.91 [Amended]

Accordingly, § 505.9 of 32 CFR is amended by deleting the exemptions for record systems A0228.01DAMH and A0726.04aDAAG.

Dated: August 18, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 81-24686 Filed 8-24-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Parts 208, 209, 240, 280, 295, 296, 345, 346, 347, 419, 440, 441, 442, 443, 444, 647, 752, 753, 755, 757, 758, 763, 765, 766, 767, 768, 769, 774, 793, and 797

Removal of Miscellaneous Parts

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing certain obsolete parts. These regulations will become obsolete as the result of legislation consolidating certain Department grant programs. The Secretary takes this action to eliminate unnecessary regulations.

EFFECTIVE DATE: These regulations are effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Avenue SW. (Room 2129, FOB-6), Washington, D.C. 20202. Telephone: (202) 245-7091.

SUPPLEMENTARY INFORMATION: As a result of Title V of the Omnibus Budget Reconciliation Act of 1981, certain regulations for programs under the Elementary and Secondary Education Act of 1965, as amended, and other statutory authorities, will become obsolete October 1, 1982. This document removes these regulations from the CFR as of that date. Subject to the provisions of the Omnibus Education Reconciliation Act of 1981, grants awarded by the Department of Education before October 1, 1982, are subject to the regulations in effect at the time the grants were made.

The publication of this document as a proposed rule for public comment is unnecessary because it concerns only the removal of obsolete regulations from the CFR.

Dated: August 21, 1981.

William C. Clohan, Jr.,

Acting Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers 84.006; 84.043; 84.045; 84.070; 84.074; 84.079; 84.080; 84.081; 84.082; 84.084; 84.087; 84.088; 84.105; 84.112; 84.119; 84.123; 84.143)

Title 34 of the Code of Federal Regulations is amended as follows:

PART 208—STRENGTHENING STATE EDUCATIONAL AGENCY MANAGEMENT [REMOVED]

1. Part 208 is removed.

PART 209—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY [REMOVED]

2. Part 209 is removed.

PART 240—TEACHER CENTERS PROGRAM [REMOVED]

3. Part 240 is removed.

PART 280—EMERGENCY SCHOOL AID [REMOVED]

4. Part 280 is removed.

PART 295—CAREER EDUCATION, STATE ALLOTMENT PROGRAM [REMOVED]

5. Part 295 is removed.

PART 296—CAREER EDUCATION, DISCRETIONARY PROGRAMS [REMOVED]

6. Part 296 is removed.

PART 345—GIFTED AND TALENTED CHILDREN'S EDUCATION PROGRAM: GENERAL [REMOVED]

7. Part 345 is removed.

PART 346—GIFTED AND TALENTED CHILDREN'S EDUCATION: STATE-ADMINISTERED PROGRAM [REMOVED]

8. Part 346 is removed.

PART 347—GIFTED AND TALENTED CHILDREN'S EDUCATION PROGRAM: DISCRETIONARY GRANT PROGRAM [REMOVED]

9. Part 347 is removed.

PART 419—YOUTH EMPLOYMENT PROGRAM [REMOVED]

10. Part 419 is removed.

PART 440—COMMUNITY SCHOOLS AND COMPREHENSIVE COMMUNITY EDUCATION PROGRAM [REMOVED]

11. Part 440 is removed.

PART 441—COMMUNITY EDUCATION: STATE PROGRAM [REMOVED]

12. Part 441 is removed.

PART 442—COMMUNITY EDUCATION: GRANTS TO LOCAL EDUCATIONAL AGENCIES [REMOVED]

13. Part 442 is removed.

PART 443—COMMUNITY EDUCATION: GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE CORPORATIONS [REMOVED]

14. Part 443 is removed.

PART 444—COMMUNITY EDUCATION: TRAINING GRANTS TO INSTITUTIONS OF HIGHER EDUCATION [REMOVED]

15. Part 444 is removed.

PART 647—BIOMEDICAL SCIENCES PROGRAM [REMOVED]

16. Part 647 is removed.

PART 752—METRIC EDUCATION PROGRAM [REMOVED]

17. Part 752 is removed.

PART 753—ARTS EDUCATION PROGRAM [REMOVED]

18. Part 753 is removed.

PART 755—CONSUMERS' EDUCATION PROGRAM [REMOVED]

19. Part 755 is removed.

PART 757—LAW-RELATED EDUCATION [REMOVED]

20. Part 757 is removed.

PART 758—FINANCIAL ASSISTANCE FOR ENVIRONMENTAL EDUCATION PROJECTS [REMOVED]

21. Part 758 is removed.

PART 763—POPULATION EDUCATION PROGRAM [REMOVED]

22. Part 763 is removed.

PART 765—BASIC SKILLS IMPROVEMENT AND EDUCATIONAL PROFICIENCY [REMOVED]

23. Part 765 is removed.

PART 766—NATIONAL BASIC SKILLS IMPROVEMENT [REMOVED]

24. Part 766 is removed.

PART 767—STATE BASIC SKILLS IMPROVEMENT [REMOVED]

25. Part 767 is removed.

PART 768—EDUCATIONAL PROFICIENCY [REMOVED]

26. Part 768 is removed.

PART 769—ETHNIC HERITAGE STUDIES PROGRAM [REMOVED]

27. Part 769 is removed.

PART 774—GRANTS TO STATE EDUCATIONAL AGENCIES FOR EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT [REMOVED]

28. Part 774 is removed.

PART 793—TEACHER CORPS [REMOVED]

29. Part 793 is removed.

PART 797—PRE-COLLEGE TEACHER DEVELOPMENT IN SCIENCE PROGRAM [REMOVED]

30. Part 797 is removed.

[FR Doc. 81-24804 Filed 8-24-81; 8:45 am]
BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

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

EFFECTIVE DATE: August 17, 1981.

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

SUPPLEMENTARY INFORMATION: The Administrator is required by law to establish a maximum interest rate for loans guaranteed, insured or made by Veterans Administration as he finds the mortgage money market demands. This authority has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and

assure a continuing supply of funds for guaranteed and insured mortgages.

Regulatory Flexibility Act/Executive Order 12291 Certifications

For the reasons discussed in the May 7, 1981 Federal Register, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they do not come within the definition of a "major rule" as defined in that Order. Also, the existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process will still permit timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the maximum interest rate for VA guaranteed, insured, and direct home and condominium loans would create an acute shortage of mortgage funds pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

The official program numbers and titles of the VA programs affected by this action as set forth in OMB Circular A–89, Catalog of Federal Domestic Assistance, are 64.113, Veterans Housing—Direct Loans and Advances, and 64.114, Veterans Housing—Guaranteed and Insured Loans.

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code, and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

The increases in the maximum interest rates are accomplished by amending §§ 36.4311(a) and 36.4503(a) of Title 38, Code of Federal Regulations.

Approved: August 14, 1981.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

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

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 16½ per centum per annum, effective August 17, 1981, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 16½ per centum per annum on the unpaid principal balance.

(38 U.S.C. 1803(c)(1))

* * * * *

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

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 at the amount the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 16½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 17 percent per annum.

(38 U.S.C. 1811(d)(1) and (2)(A)).

* * * * *

(38 U.S.C. 210(c), 1803(c)).

[FR Doc. 81-24708 Filed 8-24-81; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum permissible interest rate on guaranteed mobile home loans. The maximum interest rates are increased because the former rates were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. The increases will attract funds for GI mobile home loans; thereby, allowing veterans to purchase mobile homes with the assistance of no downpayment VA loans.

EFFECTIVE DATE: August 17, 1981.

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

SUPPLEMENTARY INFORMATION: The Administrator is required by law to establish a maximum interest rate for mobile home loans guaranteed by the Veterans Administration as he finds the capital markets demand. This authority has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them. Recent market indicators, including the general increase in interest rates charged on conventional mobile home loans and the increase in the prime interest rate, have shown that the capital markets have become more restrictive. The maximum rates formerly in effect for VA guaranteed mobile home loans were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. To assure a continuing supply of funds for mobile home loans through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed mobile home loans.

The increase in the interest rate applies to mobile home unit loans, mobile home lot and site preparation loans, and combination loans involving the purchase of a mobile home unit and lot.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed insured or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

This regulatory amendment has also been reviewed under the provisions of Executive Order 12291. The VA finds that it does not come within the definition of a "major rule" as defined in that Order. Also, the existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process will still permit timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and stable flow of credit at rates consistent with the market.

This final regulation comes within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the maximum interest rates for VA guaranteed, mobile home loans would create an acute shortage of funds pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of a proposed regulation prior to publication of a final regulation is impracticable, unnecessary, and contrary to the public interest.

The official program number and title of the VA program affected by this action as set forth in OMB Circular A–89, Catalog of Federal Domestic Assistance, is 64.119, Veterans Housing—Mobile Home Loans.

This regulation is adopted under authority granted to the Administrator by sections 210(c), and 1819(f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulation is clearly within that statutory authority and is consistent with Congressional intent.

The increases in the maximum interest rates are accomplished by amending § 36.4212(a) (1), (2), (3), Title 38, Code of Federal Regulations.

Approved: August 14, 1981.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

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

(1) Effective August 17, 1981, 18½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective August 17, 1981, 18 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective August 17, 1981, 18 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

(38 U.S.C. 210(c), 1819(g))

[FR Doc. 81-24709 Filed 8-24-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PH-FRL-1918-8; PP OF2383/R348]

Hexazinone; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The rule establishes tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on certain raw agricultural commodities. This regulation was requested by E. I. du Pont de Nemours and Co. This regulation will establish the maximum permissible level for the combined residues of the subject herbicide in or on these raw agricultural commodities.

EFFECTIVE DATE: Effective on August 25, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7070).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 19, 1981 (46 FR 55268) that E. I. du Pont de Nemours and Co., Wilmington, DE 19898 had submitted a pesticide petition (PP OF 2383) to the EPA proposing that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the raw agricultural commodities alfalfa, forage at 5 parts per million (ppm); alfalfa, hay at 5 ppm; meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep at 0.05 ppm; milk at 0.05 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.01 ppm.

E. I. du Pont de Nemours submitted a revised section F petition proposing that the tolerances be amended. This notice published in the **Federal Register** of May 12, 1981 (46 FR 26375), proposing the following: That the tolerance for alfalfa forage be decreased to 2 ppm; alfalfa, hay be increased to 8 ppm; meat, fat, and meat byproducts (except liver) of cattle, goats, hogs, horses, and sheep be increased to 0.1 ppm; milk be increased to 0.1 ppm; liver of cattle, goats, horses, hogs, and sheep be increased to 0.1 and that a tolerance for eggs be added at 0.1 ppm.

No comments were received in response to the notices of filing. The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances included plant and animal metabolism studies; 90-day dog and rat feeding studies with a no-observed-effect level (NOEL) of 1,000 ppm for each study; rat teratology study with no teratogenic effects at 5,000 ppm;

(highest level tested); a rabbit teratology study with a NOEL of 125 mg/kg; 2-year rat feeding/oncogenicity study with no oncogenic effects at any level tested and NOEL of 200 ppm; a three-generation rat reproduction study with a NOEL of 2,500 ppm and mutagenicity test (Ames) negative. Additional data, presently lacking but to be submitted, include an oncogenicity study (second species); rat metabolism study; subchronic non-rodent feeding study (6 months or longer) and additional mutagenicity studies.

A tolerance level of 0.2 ppm in sugarcane has prreviously been established for hexazinone. Based on a NOEL of 1,000 ppm is the 90-day dog feeding study, the acceptable daily intake (ADI) has been set at 0.0125 mg/kg/day with a maximum permissible intake (MPI) of 0.75 mg/day for a 60 kg person. These tolerances plus the previously established tolerance utilize 10.50 percent of the ADI.

There are no regulatory actions pending against the registration of this chemical. The metabolism of hexazinone in plants and animals is adequately understood and an adequate analytical method (nitrogen selective gas chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before September 24, 1981, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: August 25, 1981.

(Sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346(d)(2)))

Dated: August 14, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.396 is revised to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

Tolerances are established for combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1, 3, 5-triazine-2,4(1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the following raw agricultural commodities:

Commodity	Part per million
Alfalfa green forage	2.0
Alfalfa hay	8.0
Cattle, fat	0.1
Cattle, mbyp	0.1
Cattle, meat	0.1
Eggs	0.1
Goats, fat	0.1
Goats, mbyp	0.1
Goats, meat	0.1
Hogs, fat	0.1
Hogs, mbyp	0.1
Hogs, meat	0.1
Horses, fat	0.1
Horses, mbyp	0.1
Horses, meat	0.1
Milk	0.1
Poultry, fat	0.1
Poultry, mbyp	0.1
Poultry, meat	0.1
Sheep, fat	0.1
Sheep, mbyp	0.1
Sheep, meat	0.1
Sugarcane	0.2

[FR Doc. 81-24707 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 762

[OPTS-66005B; TSH-FRL-1919-1]

Fully Halogenated Chlorofluorocarbons; Exemption for Spinnerette Release Agents; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a final rule, effective March 31, 1982, revoking the essential use exemption for spinnerette release agents from the agency's chlorofluorocarbon rule. The rule was inadvertently codified incorrectly. This document corrects the codification. Elsewhere in today's **Federal Register**, EPA is proposing to reinstate the exemption for spinnerette release agents to the fully halogenated chlorofluorocarbon rule.

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. 20460, Toll free: (800-424-9065), in Washington: (202-554-1401), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA issued a recodification of 40 CFR Part 762, published in the **Federal Register** of June 30, 1980 (45 FR 43721). On January 12, 1981, EPA issued a final rule revoking the essential use exemption for spinnerette release agents from the agency's chlorofluorocarbon rule. This rule, which appeared in the **Federal Register** of January 21, 1981 (46 FR 5981), should have been codified in § 762.58, but was inadvertently assigned to the incorrect section. The amendatory language and codified text appearing at the bottom of the second column on page 5982 of the **Federal Register** of January 21, 1981, are corrected to read as follows:

40 CFR Part 762 is amended by revising § 762.58(b) to read as follows:

§ 762.58 Essential use exemptions.

* * * * *

(b) Release agents for molds used in the production of plastic and elastomeric materials; including spinnerette release agents until March 1, 1982.

* * * * *

(Sec. 6, 90 Stat. 2020; (15 U.S.C. 2605))

Dated: August 18, 1981.

Edwin H. Clark II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81-24705 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-31-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 3, 7, 15, and 20

[Procurement Regulation Directive 81-6 (dated July 15, 1981)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 81-6 concerning the following areas:

1. Audit Reports on Contractor Price Proposals.
2. Use of the Financial Reporting of Government-Owned/Contractor-Held Property Clause.
3. Contract Cost Principles and Procedures.
4. Advance Information.

EFFECTIVE DATE: August 25, 1981.

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:

1. In Part 3, 3.809(b)(1) is revised to bring this coverage into alignment with a recent revision of Part 3, 3.801-5 which raised the threshold for requiring field pricing support on certain cost reimbursement type contracts to $1M.

2. In Part 7, 7.104-54 is revised to state that the clause therein need not be inserted in contracts where the only property to be provided is provided for the purpose of repair or servicing as described in Part 13, 13.702(c).

3. In Part 15, 15.205-9 (Depreciation) and 15.205-34 (Rental Costs (Including Sale and Leaseback of Property)) are revised to further align the NASA Procurement Regulation with the Defense Acquisition Regulation.

These changes are intended to reinstate the "grandfather" provisions which will make allowances for costs of long-term leases. These provisions are similar to the provisions which were in Part 15, 15.205-9 and 15.205-34 from approximately January 1969 through January 7, 1979.

Note.—When lease costs are allowed under the "Grandfather" provision, the asset values may not be included in the computation of facilities capital cost of money.

4. In Part 20, 20.5004(a) is revised to delete DCASR-Los Angeles as a recipient of advance copies of solicitations. This material is no longer desired by DCASR-Los Angeles.

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

S. J. Evans,

Director of Procurement.

PART 3—PROCUREMENT BY NEGOTIATION

3.809 [Amended]

1. In Part 3, 3.809(b)(1) the first sentence is revised by removing "* * * which, in summary, provides that a report from the cognizant audit agency will be obtained for substantially all cost-based proposals over $100,000."

PART 7—CONTRACT CLAUSES

2. In Part 7, 7.104-53(b), the clause is revised to read as follows:

7.104-53 NASA Financial Management Reporting.

* * * * *

(b) * * *

NASA Financial Management Reporting (Performance Analysis Report) (July 1981)

Monthly reporting of contract performance shall be accomplished on the NASA Monthly Contractor Financial Management Performance Analysis Report (NASA Form 533P) in accordance with the instructions set forth in NASA Handbook "Procedures for Contractor Reporting of Correlated Cost and Performance Data" (NHB 9501.2B) and on the reverse side of the form, as supplemented in the Schedule of this contract.

3. In Part 7, 7.104-54 is revised to read as follows:

7. 104-54 Financial Reporting of Government-Owned/Contractor-Held Property. The clause set forth below shall be inserted in all contracts which contain one of the following Government Property clauses: 13.702; 13.703; 13.706; 13.707 or 7.702-17 (Property Control) except where the contracting officer is virtually certain that Government property will not be furnished to, or acquired by, the contractor (i.e., as in most study contracts, certain contracts for services, etc.), or where the only property to be provided is provided for the purpose of repair or servicing as described in 13.702(c).

* * * * *

PART 15—CONTRACTS WITH COMMERCIAL ORGANIZATIONS

4. In Part 15, 15.205-9, the next to the last sentence in the introductory text of paragraph (j) is revised and paragraph (j)(3) is added as follows:

15.205-9 Depreciation.

* * * * *

(j) * * * The standards of Financial Accounting and Reporting set forth in FAS-13 are incorporated into this cost principle and shall govern in the application of this principle except when the provisions of the subparagraph (1), (2), and (3) set forth below conflict with the standards in FAS-13. * * *

* * * * *

(3) Assets acquired under leases which the contractor must capitalize in acordance with FAS-13 shall not be treated as purchased assets for contract costing purposes if the leases are covered by the provisions of 15.205-34(f).

5. In Part 15, 15.205-34 is amended by adding "(but see (f) below)." at the end of paragraph (a). A new paragraph (f) is added to read as follows:

15.205-34 Rental Costs (Including Sale and Leaseback of Property.)

* * * * *

(f) Rental costs under leases entered into prior to March 1, 1970, are allowable for the remaining term of the lease (excluding options not exercised prior to March 1, 1970) to the extent they would have been allowable under 15.205-34 dated January 1, 1969.

PART 20—ADMINISTRATIVE MATTERS

6. In Part 20, the introductory text of 20.5002 is revised to read as follows:

20.5002 Research Contracts with Colleges and Universities. Where a contract is selected as the research support instrument (see paragraph 204 of the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1A) and the proposed contractor is a nonprofit institution of higher education or a nonoprofit institution which is operationally affiliated or integrated with an educational institution, the procurement office will forward to the University Affairs Office, NASA Headquarters (Code LU-16), the following information for each contract or amendment.

* * * * *

20.5004 [Amended]

7. In Part 20, 20.5004 is revised by changing the code following "NASA Headquarters" to read "(Code K)" in place of "(Code HB-1)" in paragraph (a) and in paragraph (b) change the reference "2.205-4(c)" to read "2.205-6."

[FR Doc. 81-24657 Filed 8-24-81; 8:45 am]

BILLING CODE 7510-01-M

41 CFR Ch. 18, Part 9

[Procurement Regulation Directive 81-5 (dated July 1, 1981)]

Regulatory Coverage for Patent Rights; Small Business Firms or Nonprofit Organizations

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It implements OMB Bulletin 81-22, which was issued pursuant to authority contained in Pub. L. 96-517, "The Patent Trademark Amendments of 1980." Pub. L. 96-517 creates unique rights in inventions developed by small business firms or nonprofit organizations working under Government contracts. This new coverage, which takes effect July 1, 1981, is set forth in Part 9.108, Patent Rights Under Funding Agreements with Small Business Firms or Nonprofit Organizations for the Performance of Experimental, Developmental, or Research Work.

EFFECTIVE DATE: August 25, 1981.

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

SUPPLEMENTARY INFORMATION:

1. In Part 9, 9.107 now Property Rights in Inventions made in the Performance of Work under NASA Contracts with Other Than Small Business Firms or Nonprofit Organizations, also reflects changes in order to distinguish the new patent policies from those that continue to apply to contractors that are neither small businesses nor nonprofit organizations. In particular, the New Technology (Short Form) clause has been eliminated. The principal New Technology clause has been changed by dropping "(Long Form)" from its title and by including material ensuring proper flow-down to subcontractors who may either be eligible for the new rights in inventions or who may only have the rights available to other firms.

2. In Part 9, 9.108 contains specific implementation of Pub. L. 96-517. In addition to a new contract clause set forth in 9.108-5, that paragraph sets forth definitions, policies, and procedures. Part 9.108-1 indicates how the new policies affect inventions made on or after July 1, 1981, during the performance of contracts awarded to small business or nonprofit organizations before July 1, 1981.

3. In Part 9, 9.109 now Administration of New Technology and Patent Rights Clauses; Waiver of Rights to Inventions under 42 U.S.C. 2457, conforms to the new statute.

4. The statute also applies to grants and cooperative agreements. The NASA Grant and Cooperative Agreement Handbook is being amended to reflect this change by inclusion of the new NASA Procurement Regulation clause tailored for grants and cooperative agreements. However, policies and procedures for administering grants and cooperative agreements containing this clause are those found in the NASA Procurement Regulation.

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

S. J. Evans,

Director of Procurement.

1. In Part 9, Table of Contents, 9.102 through 9.114 are revised to read as follows:

PART 9—PATENTS, DATA, AND COPYRIGHTS

* * * * *

9.102	Authorization and Consent	9-1.7
9.103	Patent Indemnification of Government by Contractor.	9-1.8
9.104	Notice and Assistance	9-1.9
9.105	Processing of Infringement Claims	9-1.10
9.106	Classified Contracts	9-1.10
9.107	Property Rights in Inventions Made in the Performance of Work Under NASA Contracts With Other Than Small Business Firms or Nonprofit Organizations.	9-1.11
9.107-1	General	9-1.11
9.107-2	[Reserved]	9-1.12
9.107-3	Policy	9-1.12
9.107-4	Procedures	9-1.13
9.107-5	"New Technology" Clause	9-1.15
9.107-6	[Reserved]	9-1.22
9.107-7	Foreign Contracts	9-1.22
9.107-8	Patent Rights Under Product Improvement Programs or Independent Research and Development Programs.	9-1.22
9.107-9	Procurement Using Funds Transferred to, or Received from, Another Government Agency.	9-1.23
9.108	Patent Rights Under Funding Agreements With Small Business Firms or Nonprofit Organizations for the Performance of Experimental, Developmental, or Research Work.	9-1.24
9.108-1	Introduction	9-1.24
9.108-2	Definitions	9-1.25
9.108-3	Policy and Objective	9-1.25
9.108-4	Procedures	9-1.25
9.108-5	Clause for Funding Agreements (Small Business Firms and Nonprofit Organizations).	9-1.30
9.108-6	[Reserved]	9-1.35
9.108-7	Clause for Foreign Contracts.	9-1.35
9.108-8	[Reserved]	9-1.35
9.108-9	Procurement Using Funds Transferred to, or Received from, Another Government Agency.	9-1.36
9.108-10	Retention of Rights by Inventor.	9-1.36
9.108-11	Government Assignment to Contractor of Rights in Invention of Government Employee.	9-1.36
9.108-12	Exercise of March-in Rights.	9-1.36
9.108-13	Appeals	9-1.37
9.108-14	Licensing of Background Patent Rights to Third Parties.	9-1.37
9.109	Administration of the New Technology and Patent Rights Clauses; Waiver of Rights to Inventions Under 42 U.S.C. 2457.	9-1.38
9.109-1	New Technology and Patent Rights in Inventions Clauses Follow-Up; Designation of New Technology and Patent Representative.	9-1.38
9.109-2	Follow-Up by Contractor	9-1.40
9.109-3	Follow-Up by Government	9-1.40
9.109-4	Remedies	9-1.42
9.109-5	Conveyance of Invention Rights Acquired by the Government.	9-1.43
9.109-6	Waiver of Rights to Inventions in Contracts Containing the "New Technology" Clause.	9-1.43
9.110	Payment of Royalties	9-1.47
9.111 and 9.112.	[Reserved]	9-1.47
9.113	Proposal of Equivalent Merit	9-1.47
9.114	Facilities License	9-1.47

2. In Part 9, 9.107 through 9.109-6 are revised to read as follows:

9.107 Property Rights in Inventions Made in the Performance of Work Under NASA Contracts with Other Than Small Business Firms or Nonprofit Organizations.

9.107-1 General.

(a) The policies, procedures, and practices of NASA with respect to the reporting of inventions, discoveries, improvements, and innovations made in the performance of work under any NASA contract or subcontract with other than a small business firm or nonprofit organization, and the allocation of property rights relating thereto, are based upon Section 305 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457): and, to the extent not inconsistent with such statute, the revised Presidential Memorandum and Statement of Government Patent Policy issued on August 23, 1971 (36 FR 16887-16892). Any disposition of rights made in accordance with the President's statement has been authorized by Congress (35 U.S.C. 210(c); 94 Stat. 3027). Inventions made in the performance of work under NASA contracts or subcontracts (with other than a small business firm or nonprofit organization) in the manner specified in Section 305(a) (1) or (2) of the Act (42 U.S.C. 2457(a) (1), (2)), become the exclusive property of the Government unless the Administrator of NASA determines that the interest of the United States will be served by waiving all or any part of the Government's rights under the provisions of Section 305(f) of the Act (42 U.S.C. 2457(f)). Such waiver of rights is made pursuant to recommendation of an Inventions and Contributions Board established by the Administrator. The policies, procedures and practice of NASA with respect to the disposition of rights and the reporting of inventions and discoveries made in the performance of work under any NASA

contract or subcontract with small business firms and nonprofit organizations are set forth in 9.108.

(b) Section 305(b) of the Act (42 U.S.C. 2457(b)) also provides that each NASA contract and subcontract for the performance of any work shall contain effective provisions for the reporting of any invention, discovery, improvement or innovation made thereunder. NASA is also authorized, under Section 305(h) of the Act (42 U.S.C. 2457(h)) and under 35 U.S.C. 207, 94 Stat. 3023, to undertake all suitable and necessary steps to protect and administer rights to any invention or discovery for which it holds title, including applying for, obtaining and maintaining patents thereon, and to require contractors and persons who retain title under the Act to protect any of them to which NASA has or may require license rights. Further, 35 U.S.C. 207, 94 Stat. 3023, authorizes NASA to grant nonexclusive, exclusive or partially exclusive licenses, pursuant to regulation (14 CFR 1245.2), for any invention covered by a patent or patent application for which NASA holds title. NASA is also required, under Section 203(a)(3) of the Act (42 U.S.C. 2473(a)(3)) to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

9.107–2 [Reserved]

9.107–3 Policy.

(a) It is the policy of NASA to require prompt reporting of inventions, discoveries, improvements, and innovations made in the performance of any work under any NASA contract or subcontract in order to protect the Government's interests therein; and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability thereof for the benefit of the scientific, industrial, and commercial communities and the general public. Inventions made in the performance of work under any NASA contract or subcontract with other than a small business firm or nonprofit organization will become the exclusive property of the United States unless the Administrator waives all or part of the rights thereof.

(b) It is also the policy of NASA to waive all or any part of the rights of the United States in any invention made in the performance of work under any NASA contract or subcontract with other than a small business firm or nonprofit organization when a determination is made that the interests of the United States will be served thereby. The policies, procedures, and instructions for the waiver of rights (both domestic and foreign) are set forth in the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1 (see also 9.109–6). The rights reserved by the Government, as well as the conditions and obligations of a waiver, are set forth in the NASA Patent Waiver Regulations and will be included in an Instrument of Waiver executed by the Administrator and the party receiving the waiver.

(c) With respect to inventions made in the performance of any work under any NASA contract or subcontract for which the Government acquires title, and the rights thereto have not been waived to the contractor, it is the policy of NASA to normally grant the contractor a revocable, nonexclusive, royalty-free license in each patent application filed in any country, and in the resulting patent. The scope of such license, as well as its terms and conditions and the procedures for revocation, shall be set forth or be referred to, as appropriate, in the "New Technology" clause or other patent rights clause in the contract.

(d) It is a further policy of NASA to refer to the NASA Inventions and Contributions Board, for consideration for a monetary award, each invention made by an employee of a NASA contractor or subcontractor and reported to NASA, pursuant to this Subpart, and with respect to which an application for patent has been filed.

(e) Except for any invention made in the performancy of any work under any NASA contract, it is the policy of NASA to pay reasonable compensation for the acquisition of rights in any invention used or to be used by NASA and which is covered by a valid patent issuing thereon and enforceable against the Government. However, nothing in this Subpart is intended to preclude the use of appropriate contract provisions concerning rights in contractor's background patents, but rights in background patents will normally not be acquired except by specific negotiation for such rights. [Also see 9.108–14 regarding background rights in contracts with small business firms and nonprofit organizations.] Questions of validity, enforceability, and infringement of patents, as well as the acquisition of background rights, shall be referred to the installation Patent Counsel.

(f) Nothing in this Subpart shall be construed to confer immunity upon any individual, partnership, corporation, association, institution, or other entity from the antitrust laws or from a charge of patent misuse, or immunity from the operation of State or Federal Law by reason of the retention and use of rights pursuant to this Subpart.

9.107–4 Procedures.

(a) *Use of the "New Technology" Clause.*

(1) Whenever a NASA contract or subcontract with other than a small business firm or nonprofit organization is to be performed in the United States, its possessions, or Puerto Rico, and has as a purpose the performance of experimental, developmental, research, design, or engineering work, such contract or subcontract shall include the "New Technology" clause of 9.107–5, unless otherwise provided by paragraph (3) below. As illustrative, but without limitation, contracts and subcontracts for the following purposes may be considered to involve the performance of work of the type described above:

(i) Conduct of basic or applied research;

(ii) Development, design, or manufacture for the first time of any machine, article of manufacture or composition of matter to satisfy NASA's specifications or special requirements;

(iii) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique;

(iv) testing, evaluation, or experimentation with a machine, process, concept, or technique to determine whether the same is suitable or could be made suitable for a NASA objective; or,

(v) the operation of facilities or the coordination and direction of the work of others where such activities involve the performance of work of the type described in (i)–(iv) above.

(2) The "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 shall be used in any contract or subcontract with a small business firm or nonprofit organization. See 9.108 generally, for the definitions, policies, procedures and practices of NASA with respect to the use of such clause.

(3) For contracts or other agreements involving cosponsored or joint venture research, the contracting officer shall consult with the installation patent counsel for the appropriate "New Technology" or other patent rights clause to be included therein.

(b) *Subcontracts.*

(1) The policies expressed in 9.107–3, and the selection criteria for the "New Technology" clause set forth in 9.107–4(a), are also applicable to subcontracts with other than small business firms or nonprofit organizations, regardless of tier. In general, the "New Technology" clause or other patent rights clause selected for the prime contract, with the exception in most instances of any withholding provision, will be appropriate for inclusion in such subcontracts. When a subcontractor (of

any tier) is a small business firm or nonprofit organization, see 9.108–4(c). Whenever the prime contractor or a subcontractor considers the inclusion of the "New Technology" clause or other patent rights clause in a subcontract to be inappropriate or a subcontractor refuses to accept a "New Technology" clause (less the withholding provision where inapplicable) or other patent rights clause in its subcontract, the matter shall be resolved by the contracting officer in consultation with installation patent counsel prior to award of the subcontract.

(2) Contractors shall not use their ability to award subcontractors as economic leverage to acquire rights for themselves in inventions resulting from subcontracts.

(c) *Publication or Release of Invention Disclosures.*

(1) The publication of information disclosing an invention by any party before the filing of a patent application may create a bar to a valid patent. Where the contractor intends to file patent applications, NASA will use reasonable efforts to comply with any written request to restrict its publication of information disclosing the invention for a reasonable period of time in order to protect the patent rights in the invention. The contractor *must* specify the reports and documents to be restricted and the period within which patent applications will be filed.

(2) As provided in 35 U.S.C. 205, 94 Stat. 3023, Federal agencies are authorized to withhold from disclosure to the public information disclosing any subject invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies are not required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

9.107–5 "New Technology" Clause.

New Technology (July 1981)

(a) *Definitions.*

(1) *"Reportable Item"* means any invention, discovery, improvement, or innovation of the Contractor, whether or not the same is susceptible of protection under the United States Patent Laws, which is made in the performance of any work under this contract or in the performance of any work which is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

(2) *"Subject Invention"* means any Reportable Item which, in the opinion of the Administrator, is any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(3) *"Contract"* means any actual or proposed contract agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

(4) *"Made"* means the conception or first actual reduction to practice, and "making" means conceiving or first actually reducing to practice.

(5) *"Administrator"* means the Administrator of NASA or his duly authorized representative.

(b) *Presumption, Title and Waiver of Rights.*

(1) *Presumption of Title.*

(i) Any Reportable Item which the Administrator considers to be a Subject Invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of Section 305(a) of the National Aeronautics and Space Act of 1958 (43 U.S.C. 2457(a)) (hereinafter called "the Act"), and the above presumption shall be conclusive unless at the time of reporting the Reportable Item the Contractor submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the Reportable Item was not made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(ii) Regardless of whether title to a given Subject Invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Contractor may nevertheless file the statement described in paragraph (b)(1)(i) above. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the Subject Invention and will notify the Contractor whether the Administrator has determined that the Subject Invention was made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(2) *Property Rights in Subject Inventions.* Each Subject Invention for which the presumption of paragraph (b)(1)(i) of this clause is conclusive, or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act, shall be the exclusive property of the United States as represented by the National Aeronautics and Space Administration unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) below.

(3) *Waiver of Rights.* Section 305(f) of the Act provides for the promulgation of regulations for the waiver by the Administrator of the rights of the United States with respect to any invention or class of inventions made or which may be made under the conditions specified in paragraph (1) or (2) of Section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1, provide for the consideration of petitions from the Contractor or employee-inventor for waiver in any Subject Invention or petition from the Contractor for advance waiver of rights to any or all of the inventions which may be made under a contract and which may be requested prior to the execution of the contract or within 30 days after execution of the contract. Waiver of foreign rights may be requested concurrently with domestic rights or independently thereof.

(c) *Minimum Rights Reserved by the Government.*

(1) With respect to each Subject Invention for which a waiver of rights is applicable pursuant to 14 CFR Section 1245, Subpart 1, the Government shall reserve:

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States; and

(ii) Such other rights as set forth in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum Rights to the Contractor.*

(1) The Contractor is granted (see 14 CFR 1245.1), a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention reported in accordance with paragraph (e) of this clause, and in any resulting patent, in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license granted pursuant to paragraph (d)(1) of this clause may be revoked or modified by the Administrator to the extent necessary to achieve the earliest practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR 1245.2. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country granted pursuant to paragraph (d)(1) of this clause may be revoked or modified at the discretion of the Administrator to the extent the Contractor or its domestic affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, pursuant to paragraph (d)(2) of this clause, the Contractor shall be allowed 30 days (or such other time as may be allowed by the Administrator for good cause shown

by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor shall have the right to reconsideration or appeal, in accordance with 14 CFR 1245.2, of any decision concerning the revocation or modification of its license.

(e) *Reportable Item Identification Procedures and Reports.*

(1) The Contractor shall establish, maintain and follow active and effective procedures to ensure that Reportable Items are promptly identified and timely reported. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are necessary to document the conception and/or the first actual reduction to practice of Reportable Items, and records which show that the procedures for identifying and reporting the Reportable Items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A full and complete technical report for each Reportable Item within 6 months after conception or first actual reduction to practice, whichever occurs first under the contract. But, in any event, for Subject Inventions, such report shall be furnished prior to any on sale, public use, or publication known to the Contractor. The report shall identify the contract and inventor or innovator and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the Reportable Item pertains, a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the item;

(ii) Interim reports, at least every 12 months from the date of the contract, listing Reportable Items for that period and certifying that:

(A) The Contractor's procedures for identifying and reporting Reportable Items, required by this paragraph (e), have been followed throughout the reporting period; and

(B) All Reportable Items have been reported or that there are no such Reportable Items.

(iii) A final report within 3 months after completion of the contract work, listing all Reportable Items or certifying that there were no such Reportable Items. Such final report shall also include a negative subcontract report, if appropriate, pursuant to paragraph (i)(5) of this clause.

(3) The Contractor shall furnish, upon written request by the Contracting Officer, additional technical and other information available to the Contractor as is necessary for the preparation of a patent application and for prosecution of such patent application, and in addition shall execute or endeavor to secure execution of all lawful documents and instruments determined by the Administrator to be necessary for the preparation and prosecution of applications for Letters Patent covering any Subject Invention.

(4) The Contractor agrees that the Government may use, duplicate, and disclose, in whole or in part, in any manner and for any purpose whatsoever, and have others so do, all reports of Reportable Items and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of Rights In Unreported Subject Inventions.*

(1) The Contractor shall forfeit to the Government all rights in any Subject Invention which it fails to report to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application for patent thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the performance of any work under the contract and submits the same to the Contracting Officer; or

(ii) Reports the invention to the Contracting Officer, together with the written statement specified in paragraph (b)(1)(i) of this clause, to overcome the presumption of title in the invention; or

(iii) Establishes that the failure to report did not result from his fault or negligence.

(3) At the discretion of the Administrator, the Contractor may not forfeit rights under paragraph (f)(1) of this clause if the Contractor files or causes to be filed a United States application for patent thereon and the applicant files with the Commissioner of Patents a written statement under oath pursuant to subsection 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)).

(4) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the "Disputes" clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of Records Relating to Inventions.*

(1) The Contracting Officer, until the expiration of 3 years after final payment under the contract, shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Reportable Items if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of Payment (Not Applicable to Subcontracts).*

(1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not to exceed $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside, if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and reporting Reportable Items pursuant to paragraph (e)(1) of this clause; or

(ii) Furnish any Reportable Items pursuant to paragrpah (e)(2)(i) of this clause; or

(iii) Furnish acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance thereof shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor furnishes to the Contracting Officer all reports of Reportable Items required by paragraph (e)(2)(i) of this clause, and an acceptable final report pursuant to (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the maximum amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.*

(1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include this "New Technology" clause modified to identify the parties in any subcontract hereunder with other than a

small business firm or a nonprofit organization if a purpose of the subcontract is the conduct of experimental, developmental, research, design, or engineering work. For subcontracts for experimental, developmental, or research work with a small business firm or nonprofit organization (as defined in NASA PR 9.108–2) the clause set forth in NASA PR 9.108–5, suitably modified, shall be used. In the event of refusal by a subcontractor to accept either clause, as applicable, the Contractor:

(i) Shall promptly submit a written notice to the Contracting Officer setting forth reasons for the subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefore, acquire any rights in his subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All reports of Reportable Items, instruments, and other reports and information required to be furnished by the subcontractor to the Contracting Officer under the provisions of a "New Technology" clause in any subcontract hereunder may, in the discretion of the Contracting Officer, be furnished to the Contractor for transmission to the Contracting Officer.

(5) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract containing a "New Technology" clause by identifying the subcontractor, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing "New Technology" clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall identify all Reportable Items of the subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Contracting Officer promptly upon the identification of Reportable Items.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Reportable Items, and the Contractor hereby assigns to the Government all rights that he would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Reportable Items. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Reportable Items.

9.107–6 [Reserved].

9.107–7 Foreign Contracts. A patent rights clause allocating the property rights in inventions shall be included in every contract having, as one of its purposes, the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clause in 9.107–5 is not appropriate, and a substitute or modified clause is to be used after consultation with the installation patent counsel to meet the requirements peculiar to the foreign procurement.

9.107–8 Patent Rights Under Product Improvement Programs or Independent Research and Development Programs. When NASA under its established procedures provides, as an item in the computation of overhead, financial support to (i) a contractor's product improvement program, or (ii) a contractor's independent research and development program, the inventions resulting from such programs are not subject to the "New Technology" clause (or other patent rights clause) merely by virtue of the provision of such financial support. The clause set forth below may be included at the request of the contractor in the Schedule of a cost-reimbursement type contract wherein NASA is providing such support to the contractor's product improvement program or independent research and development program.

Inventions Made Under Contractor's Independent Research and Development Programs (July 1981)

Any invention made in the performance of any work by the Contractor under the Contractor's own product improvement program, or the Contractor's independent research and development program, even though supported by an allowance of costs for such program as a part of the overhead costs thereof, will not be subject to the "New Technology" clause or any other patent rights clause included in this contract unless said work is identified in writing as being required in the performance of this contract.

9.107–9 Procurement Using Funds Transferred to, or Received from, Another Government Agency.

(a) Whenever NASA requests another Government agency to perform work of a type defined in 9.107–4(a)(1), and unless special agreements relating to patent rights exist between NASA and such other agency, the contracting officer shall determine whether such agency contemplates contracting for such work or performing the work in-house. If it is determined that the other agency may contract for such work or a portion thereof, the following is to be provided to the agency along with the instrument requesting the agency to perform the work:

(1) Names and addresses of NASA New Technology Representative and Patent Representative (see 9.109–1(b));

(2) Instructions pursuant to 9.107–4(a) to include the "New Technology" clause in any contract which it awards to other than a small business firm or nonprofit organization for the performance of experimental, developmental, research, design, engineering, or test and evaluation work for the purpose of fulfilling the NASA request.

(3) Instructions that the agency shall use the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 in any contract it awards to a small business firm or nonprofit organization for the performance of experimental, developmental or research work unless NASA makes a determination of exceptional circumstances. If such a determination is made, NASA is to so advise the other agency, provide a copy of the patent rights clause to be used, and follow the procedures set forth in 9.108–4(a)(2).

(4) Instructions to furnish the NASA New Technology Representative and the Patent Representative with the name and address of the office or unit within the agency having technical cognizance of the work to be performed under any contract of the type referred to in either subparagraph (2) or (3) above.

(5) A request to supply a copy of any contract, of the type referred to in either subparagraph (2) or (3) above, to the NASA New Technology Representative and the Patent Representative.

(6) Instructions for contractors to forward promptly, through the agency contracting officer, requests and petitions for waiver to the Chairman, Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546, and any notification of election of title to the Patent Representative.

(7) Instructions to forward promptly to the NASA, New Technology Representative all reports of Reportable Items and Subject Inventions made during the performance of work under such contracts, and a copy of the contractor's interim and final reports for each contract as required by the "New Technology" clause included in the contract.

(b) Whenever another Government agency requests NASA to perform experimental, developmental, or research work and NASA contemplates contracting for all or part of such work, the "New Technology" clause of 9.107–5 or the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, as applicable, may be used unless the other agency requests alterations thereto or a substitute clause. If alterations or a substitute clause are requested, the contracting

officer shall consult with installation patent counsel as to the appropriateness of the use thereof. In some instances agreements will exist between NASA and another agency requiring special clauses and other provisions relating to patents and inventions to be included in any contract executed by NASA for or on behalf of the other agency. The contracting officer shall refer to such agreements prior to initiating procurement action for any such contracts and shall consult with installation patent counsel with respect to any question concerning the appropriate clauses to use or the interpretation, implementation, or departure from the provisions or clauses set forth in such agreements. When the contract is with a small business firm or nonprofit organization, any exceptions made under 35 U.S.C. 202(a)(ii) or (iii), and any documentation and reporting requirements required by 35 U.S.C. 202(b)(1), shall be the responsibility of the requesting agency unless otherwise provided in such agreement (see 9.108–4(a)).

9.108 Patent Rights Under Funding Agreements with Small Business Firms or Nonprofit Organizations for the Performance of Experimental, Developmental, or Research Work.

9.108–1 Introduction.

(a) On December 12, 1980, Public Law 96–517 (35 U.S.C. 200 et seq.) was enacted governing the distribution of rights in inventions made by small business firms and nonprofit organizations under funding agreements with Federal agencies.

(b) This Act takes precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations in a manner inconsistent with the new Act. Additionally, the new Act will take precedence over any future Act unless the future Act cites the new Act and provides that will take precedence. This paragraph takes effect on July 1, 1981, and will be applicable to all funding agreements with small business firms and nonprofit organizations executed on or after that date.

(c) As to any subject inventions which are "made" on or after July 1, 1981, in the performance of funding agreements which were awarded prior to July 1, 1981, to small business firms or nonprofit organizations, paragraph 1245–118 of the NASA Patent Waiver Regulations of July 1981 (14 CFR 1245.1) may be applied.

9.108–2 Definitions. As used in this paragraph:

(a) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(b) The term "contractor" means any small business firm or nonprofit organization that is a party to a funding agreement.

(c) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.

(d) The term "subject invention" means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

(e) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(f) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(g) The term "small business firm" means a small business concern as defined at Section 2 of the Public Law 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this Subpart, the size standard for small business concerns involved in Government procurement, contained in 13 CFR 121.3–8, and in subcontracting, contained in 13 CFR 121.3–12, will be used.

(h) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

9.108–3 Policy and Objective. This paragraph 9.108 is designed to implement 35 U.S.C. 202–204 in a manner consistent with the policies and objectives set forth in 35 U.S.C. 200.

9.108–4 Procedures.

(a) *Use of the "Patent Rights (Small Business Firm or Nonprofit Organization)" Clause.*

(1) Each funding agreement awarded to a small business firm or nonprofit organization which is to be performed in the United States, its possessions or Puerto Rico and has as a purpose the performance of experimental, developmental or research work shall contain the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause set forth in 9.108–5, except that the funding agreement may provide otherwise:

(i) When the funding agreement is for the operation of a Government-owned, Federally Funded Research and Development Center or a Government-owned research or production facility.

(ii) In exceptional circumstances when it is determined by NASA that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of Chapter 38 of Title 35 of the United States Code, or

(iii) When it is determined by a Government authority which is authorized by statute or Executive Order to conduct foreign intelligence or counterintelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities.

(2) Any determination under subparagraph (a)(1)(ii) of this paragraph will be in writing and accompanied by a written statement of facts justifying the determination. The statement of facts will contain such information as NASA deems relevant and, at minimum, will (1) identify the small business firm or nonprofit organization involved, (2) described the extent to which NASA action restricted or eliminated the right to retain title to a subject invention, (3) state the facts and rationale supporting NASA action, (4) provide supporting documentation for those facts and rationale, and (5) indicate the nature of any objections to NASA action and provide any documentation in which those objections appear. A copy of each such determination and written statement of facts will be sent to the Comptroller General of the United States within thirty days after the award of the applicable funding agreement. In cases of determinations applicable to funding agreements with small business firms, copies will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(3) To assist the Comptroller General to accomplish his responsibilities under 35 U.S.C. 202, each Federal agency shall accumulate and, at the request of the Comptroller General, provide the Comptroller General or his duly authorized representative the total number of funding agreements entered into by it with small businesses or nonprofit organizations that contain the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause set forth in 9.108–5 during each period of July 1 through June 30, beginning July 1, 1982.

(4) To qualify for the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause, the small business firm or nonprofit organization may be required by NASA to certify that it qualifies as a small business firm or nonprofit organization as defined in paragraphs (g) and (h) of 9.108–2. If the contracting officer has reason to question the status of the small business firm or nonprofit organization under the definitions in paragraphs (g) and (h) of 9.108–2, he or she may file a request in accordance with 13 CFR 121.3–5 in regard to the status of the small business firm or he or she may require the nonprofit organization to furnish evidence to establish that it satisfies the requirements of the definition in (h) of 9.108–2.

(5) *Right to Sublicense Foreign Governments and International Organizations.* When the Administrator or duly authorized designee determines at the time of contracting with a small business firm or nonprofit organization that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing or future treaty or agreement, a sentence will be added at the end of paragraph (b) of the Patent Rights clause in 9.108–5 as follows:

This license will include the right of the Government to sublicense foreign governments and international organizations pursuant to any existing or future treaty or agreement with such foreign governments or international organizations.

However, this language may be modified to be limited to specific treaties or agreements or otherwise specify a time when the Government's right to sublicense ends.

(6) Where NASA determines that, due to the need to support its programs to protect Government-owned inventions in foreign countries, additional procedural safeguards are necessary to prevent the defeat of foreign rights due to statutory bars, the following language may be added to paragraph (c)(1)(ii) of the clause of 9.108–5.

but in any event, at least three months (unless shortened by the Contracting Officer) before (a) a public use or on sale of the invention occurs, (b) a manuscript describing the invention is submitted for publication without assurance of confidentiality, or (c) the invention is otherwise made available to the public.

When the above addition has been made to the clause of 9.108–5, paragraph (c)(2) should be deleted.

(b) *Minimum rights to contractor.*

(1) Paragraph (e) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 specifies the minimum rights retained by the contractor in Subject Inventions. When the Federal Government acquires title to a reported Subject Invention, the contractor will retain a revocable, nonexclusive, royalty-free license through out the world in the Subject Invention. The contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the contractor is a part and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of NASA except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(2) the contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with the NASA Patent Licensing Regulations (14 CFR 1245.2). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by NASA for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with the procedures set forth in the NASA Patent Licensing Regulations (14 CFR 1245.2), from any decision concerning the revocation or modification of its license.

(c) *Subcontracts.*

(1) Paragraph (g) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 requires that the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause suitably modified to identify the parties, be included in all subcontracts with small business firms and nonprofit organizations for experimental, developmental, or research work to be performed in the United States, its possessions or Puerto Rico. For subcontracts, regardless of tier, with other than a small business firm or nonprofit organization for the performance of experimental, developmental, research, design or engineering work the "New Technology" clause or other patent rights clause required by 9.107–4(b) is to be used.

(2) Contractors will not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(3) As to all NASA contracts (and subcontracts) entered into prior to July 1, 1981, which contain either the "New Technology (Long Form)" clause of 9.107–5 or the "New Technology (Short Form)" clause of former paragraph 9.107–6, the contractor (or subcontractor) is authorized to flow-down the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 as required by this subparagraph 9.108–4(c) in lieu of the requirements of the aforementioned "New Technology" clause (subparagraphs (i) and (f), respectively) in all subcontracts executed after July 1, 1981, with a small business firm or nonprofit organization.

(d) *Publication or Release of Invention Disclosures.*

(1) The publication of information disclosing an invention by any party before the filing of a patent application may create a bar to a valid patent. Where the contractor intends to file patent applications, NASA will use reasonable efforts to comply with any written request to restrict its publication of information disclosing the invention for a reasonable period of time in order to protect the patent rights in the invention. The contractor *must* specify the reports and documents to be

restricted and the period within which patent applications will be filed.

(2) As provided in 35 U.S.C. 205, NASA is authorized to withhold from disclosure to the public information disclosing any subject invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, NASA is not required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

(e) *Reporting on Utilization of Subject Inventions.* Paragraph (h) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause in 9.108–5 provides that NASA has the right to receive periodic reports from the contractor on utilization of inventions. NASA shall obtain such information from its contractors. However, to ensure uniformity in the nature of the periodic reporting required by the various agencies, NASA shall work with a designated lead agency to establish standard utilization reporting requirements. To the extent such data or information supplied by the contractor is considered by the contractor, or its licensee or assignee, to be privileged and confidential and is so marked, agencies should not, to the extent permitted by 35 U.S.C. 202(c)(5), disclose such information to persons outside the Government.

(f) *Additional Administrative Requirements.* To the extent not required by other provisions of the funding agreement, additional subparagraphs may be added to paragraph (f) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause in 9.108–5 to require the contractor to do one or more of the following:

(1) Provide periodic (but no more frequently than annually) listings of all subject inventions required to be disclosed during the period covered by the report;

(2) Provide a final report prior to the close out of a funding agreement listing all subject inventions;

(3) Provide notification of all subcontracts for experimental, developmental or research work, identification of the patent rights clause therein, and a copy of the subcontract on request; and

(4) Provide, upon request, the filing date, serial number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

9.108–5 Clause for Funding Agreements (Small Business Firms and Nonprofit Organizations). The following clause will be used in funding agreements with small business firms and nonprofit organizations unless the funding agreement falls within one of the exceptions described in 9.108–4(a)(1).

Patent Rights (Small Business Firm or Nonprofit Organization) (July 1981)

(a) *Definitions.*

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Public Law 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement, contained in 13 CFR 121.3–8, and in subcontracting, contained in 13 CFR 121.3–12, will be used.

(6) "Nonprofit Organization" means universities and other institutions of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(b) *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this clause. With respect to any Subject Invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any Subject Invention throughout the world for which the Contractor has elected to retain title.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.*

(1) After a Subject Invention has been disclosed in writing by the inventor(s) to Contractor personnel responsible for the administration of patent matters, the Contractor will:

(i) Disclose such invention to the Contracting Officer within six months;

(ii) Elect whether or not to retain title to any such invention by notifying the Contracting Officer within twelve months of disclosure to the Contractor, but in any event, at least three months (unless shortened by the Contracting Officer) before (A) a public use or on sale of the invention occurs, (B) a manuscript discribing the invention is submitted for publication without assurances of confidentially, or (C) the invention is otherwise made available to the public;

(iii) File its initial patent application on an elected invention within two years after election; and

(iv) File patent applications in additional countries within either, ten months of the corresponding initial patent application, or six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing was prohibited for security reasons.

(2) Request for extension of the time for disclosure to the Contracting Officer, election and filing, where reasonable, will normally be granted.

(3) The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The report shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and accepted at the time of disclosure.

(d) *Forfeiture of Title.*

(1) The Contractor will convey to NASA, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect to retain title to the Subject Invention within the times specified in (c) above, or elects not to retain title;

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in (c) above; provided however, that if the Contractor has filed a patent application in a country after the times specified in (c) above but prior to its receipt of the written request of NASA, the Contractor shall continue to retain title in that country; or

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a Subject Invention.

(e) *Minimum Rights to Contractor.* The Contractor will retain a nonexclusive, royalty-free, license throughout the world in each Subject Invention to which the Government obtains title except if the Contractor fails to disclose the Subject Invention within the times specified in (c) above. This license extends to, and is revocable and transferable as, specified in

9.108–4(b) of the NASA Procurement Regulation.

(f) *Contractor Action to Protect Government's Interest.*

(1) The Contractor agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to—

(i) Establish or confirm the rights the Government has throughout the world in those Subject Inventions for which the Contractor retains title, and

(ii) Convey title to NASA when requested under (d) above and to enable the Government to obtain patent protection throughout the world on that Subject Invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each Subject Invention made under this contract in order that the Contractor can comply with the disclosure provisions of (c) above and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights in the Subject Inventions. The disclosure format should require as a minimum, the information requested by subparagraph (c)(3) above. The Contractor shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to United States or foreign statutory bars.

(3) The Contractor will notify the NASA of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by NASA. The Government has certain rights in this invention."

(5) The Contractor shall furnish the Contracting Officer:

(i) Interim reports every twelve months from the date of this contract, listing all subject Inventions required to be disclosed during that period:

(ii) A final report prior to close out of this contract listing all Subject Inventions:

(iii) Notification of all subcontracts for experimental, developmental, research, design or engineering work; identification of the patent rights clause therein, and a copy of the subcontract upon request; and

(iv) Upon request, the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any Subject Invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.*

(1) The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed in the United States, its possessions, or Puerto Rico by a small business firm or a nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's Subject Inventions.

(2) the Contractor will include in all subcontracts, regardless of tier, for experimental, developmental, research, design or engineering work with other than a small business firm or nonprofit organization the patent rights clause required by 9.107–4(b) of the NASA Procurement Regulation.

(h) *Reporting on Utilization of Subject Inventions.* the Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as NASA may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by NASA in connection with any march-in proceeding or informal investigation undertaken by NASA in accordance with 9.108–12 of the NASA Procurement Regulation. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, NASA agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any products embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by NASA upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Contractor agrees that with respect to any Subject Invention in which it has acquired title, NASA has the right in accordance with the procedures of 9. 108–12 of the NASA Procurement Regulation to require the Contractor, an assignee or exclusive licensee of a Subject Invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license itself if NASA determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention in such field of use:

(2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) such action is necessary because the agreement required by section (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that:

(i) rights to a subject Invention in the United States may not be assigned without the approval of NASA except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee will be subject to the same provisions as the Contractor):

(2) the Contractor may not grant exclusive licenses under United States patents or patent applications in Subject Inventions to persons other than small business firms for a period in excess of the earlier of (i) five years from first commercial sale or use of the invention, or (ii) eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on case-by-case basis, NASA approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale our use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The Contractor will share any royalties collected on a Subject Invention with the inventor(s); and

(4) the balance of any royalties or income earned by the Contractor with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventons, will be utilized for the support of scientific research or education.

9. 108–6 [Reserved]

9. 108–7 Clause for Foreign Contracts. A patent rights clause will be included in every contract with a small business firm or nonprofit organization having as one of its purposes the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clause authorized for domestic contracts in 9. 108–5 may be used or replaced by any other clause tailored to meet the requirements peculiar to the foreign procurement. Installation Patent Counsel should be consulted on clause selection.

9. 108–8 [Reserved].

9.108–9 Procurement Using Funds Transferred to, or Received from, Another Government Agency. The policy, procedures and instructions set forth in 9.107–9 apply, as appropriate, to funding agreements with small business firms and nonprofit organizations.

9.108–10 Retention of Rights by Inventor. In contracts with small business firms or nonprofit organizations, if the contractor does not elect to retain title to a Subject Invention, NASA may consider and, after consultation with the contractor, may grant requests for retention of rights by the inventor. Retention of rights by the inventor will be subject to the same conditions as provided in 35 U.S.C. 202–204.

9.108–11 Government Assignment to Contractor of Rights in Invention of Government Employee. In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a small business firm or nonprofit organization, the Federal agency employing such coinventor may transfer or reassign whatever right it may acquire in the Subject Invention from its employee to the contractor subject to the conditions of this paragraph.

9.108–12 Exercise of March-in Rights.

(1) A march-in proceeding shall be initiated by the issuance of a written notice by NASA to the contractor and its assignee or exclusive licensee, as applicable, stating that NASA is considering the exercise of march-in rights. The notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action is based and shall specify the field or fields of use in which NASA is considering requiring licensing. The notice shall advise the contractor (assignee or exclusive licensee) of its rights, as set forth in this paragraph 9.108. The determination to exercise march-in rights shall be made by the Administrator or his or her delegee.

(2) Within 30 days after receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit, in person, in writing, or through a representative, information and argument in opposition of the proposed march-in, including any additional specific information which raises a genuine dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the Administrator or his delegee shall refer the matter to another official of the agency for fact-finding.

(3) Fact-finding shall be conducted in accordance with the procedures established by NASA. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures shall afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as NASA may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and NASA.

(4) The official conducting fact-finding shall prepare written findings of fact and transmit them to the Administrator or his or her delegee promptly after the conclusion of the fact-finding proceeding. A copy of the findings of fact, shall be sent to the contractor (assignee or exclusive licensee) by registered or certified mail.

(5) In cases in which fact-finding has been conducted, the Administrator or his or her delegee shall base his determination on the facts found, together with any other information and argument submitted by the contractor (assignee or exclusive licensee) and any other information in the administrative record. In cases referred for fact-finding, the Administrator or his or her delegee may reject only those facts that have been found that are clearly erroneous. Prompt written notice of the determination whether march-in rights will be exercised shall be made by the Administrator or his or her delegee and sent to the contractor (assignee or exclusive licensee) by certified or registered mail.

9.108–13 Appeals. In accordance with procedures prescribed by NASA, any party to the funding agreement, licensee, or assignee may appeal to the Administrator or his or her designee any decision or determination concerning the denial, interpretation, modification, or termination of a right to a subject invention under paragraphs (i), (k)(1), or (k)(2) of the clause in 9.108–5. In addition, the contractor may appeal any decision of the Administrator or his or her delegee that there is no genuine dispute over a material fact under the proceedings provided for in 9.108–12.

9.108–14 Licensing of Background Patent Rights to Third Parties.

(a) A funding agreement with a small business firm or nonprofit organization will not contain a provision allowing NASA to require the licensing to third parties of inventions owned by the contractor that are not Subject Inventions unless such provision has been approved by the Administrator and a written justification has been signed by the Administrator. Any such provision will clearly state whether the licensing may be required in connection with the practice of a Subject Invention, a specifically identified work object, or both. The Administrator may not delegate the authority to approve such provisions or to sign justifications required for such provisions.

(b) NASA will not require the licensing of third parties under any such provision unless the Administrator determines that the use of the invention by others is necessary for the practice of a Subject Invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the Subject Invention or work object. Any such determination will be on the record after an opportunity for a NASA hearing. Any action commenced for judicial review of such determination will be brought within sixty days after notification to the contractor of such determination.

9.109 Administration of the New Technology and Patent Rights Clauses: Waiver of Rights to Inventions Under 42 U.S.C. 2457.

9.109–1 New Technology and Patent Rights in Inventions Clauses Follow-Up: Designation of New Technology and Patent Representatives.

(a) It is important that the Government and the contractor know, protect, and exercise their rights in any inventions, discoveries, improvements or innovations made in the performance of work under contracts of NASA in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for infringement. To attain these ends, contracts having the "New Technology" clause of 9.107–5, the "Patent Rights

(Small Business Firm or Nonprofit Organization)" clause of 9.108–5, or other patent rights clause (hereinafter referred to as "the clause" unless otherwise indicated) should be so administered that:

(1) Reportable Items and Subject Inventions, as defined in the clause, are identified, disclosed, reported and election made, as required by the clause;

(2) The rights to the Government in such Reportable Items and Subject Inventions are established;

(3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;

(4) The filing of patent applications is documented by formal instruments such as confirmatory licenses or assignments; and

(5) Expeditious commercial utilization of such Reportable Items or Subject Inventions is achieved.

(b)(1) For each contract containing the clause the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause, protect the Government's rights, and take other actions in relation thereto. The respective responsibilities and authorities of these representatives in administering the clause are set forth in 9.109–3. Designation of these representatives shall be accomplished by incorporation of a provision into the contract Schedule containing the following or similar statements:

Designation of New Technology Representative and Patent Representative

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights (Small Business Firm or Nonprofit Organization)" clause, whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office code	Address (including zip code)
New technology representative		
Patent representative		

(b) Reports of Reportable Items, Subject Inventions interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This provision shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights (Small Business Firm or Nonprofit Organization)" clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives is set forth in 9.109–3 of the NASA Procurement Regulation.

(2) The New Technology Representative shall be the Technology Utilization Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(3) The contracting officer shall:

(i) Furnish the New Technology Representative a copy of each contract (and modifications thereto) containing the clause, copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative indicates otherwise.

(ii) Notify the New Technology Representative of the organizational element of the NASA installation having technical cognizance of the contract; and

(iii) Furnish the Patent Representative a copy of each contract (and modifications thereto) containing the clause, copies of the final technical report, interim progress reports, and other pertinent material provided under the contract, unless the Patent Representative indicated otherwise.

(4) The New Technology Representative and the Patent Representative shall maintain complete files of corespondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished to the contracting officer.

9.109–2 Follow-Up Contractor.

(a) Each contractor other than a small business firm or nonprofit organization is required to establish and maintain effective procedures to ensure that Reportable Items made in the performance of work under contracts of NASA are identified, reported, and when appropriate, patent applications filed, and the Government's rights therein are established and protected. Each contractor that is a small business firm or a nonprofit organization *should* establish and maintain effective procedures to ensure that inventions made under the contract are identified, disclosed, and when appropriate, patent applications filed, and the Government's rights therein are established and protected.

(b) When it is determined after the award of a contract that the contractor or a subcontractor may not have a clear understanding of the rights and obligations of the parties under the clause, a post-award orientation conference or letter should be used to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing Reportable Items and Subject Inventions.

(c) During the period of performance of each contract or subcontract the contractor or subcontractor is to submit to the New Technology Representative (or any other representative designated by the contracting officer) all reports of Reportable Items, Subject Inventions, interim reports, subcontract identification, and other information in the manner required by the clause; and upon the completion of the work under the contract or subcontract the final report if required by the clause.

(d) Reporting of Reportable Items required by the "New Technology" clause promptly and before the completion of contract work, and the prompt submission of the final report upon completion of contract work will aid New Technology clearance. Timely submission of annual interim reports, where contracts cover a period of more than one year, will also facilitate clause administration and expedite final clearance.

9.109–3 Follow-Up by Government. In order to ensure compliance by the contractor with the obligations of the clause:

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractor, where appropriate, are complying with the reporting requirements of the clause. This effort should be directed primarily toward contracts and subcontracts which, by the nature of the experimental, developmental, research, or other work to be performed, or the dollar amounts involved, are likely to produce Reportable Items or Subject Inventions of significant quantity or quality, or toward contracts and subcontracts where there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spot-checked when feasible. These follow-up activities may include:

(1) Reviewing technical reports submitted by the contractor;

(2) Requesting the Patent Representative to check sources for patents issued to the contractor in fields related to his Government contracts;

(3) Interviewing contractor personnel regarding work under the contract, observing the work on-site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract where so authorized by the clause;

(4) Interviewing agency technical personnel concerning novel developments, in contracts under their cognizance; and

(5) Ensuring that the contractor is timely in submitting the reports of Reportable Items and Subject Inventions, interim reports, subcontract identification, and final reports if required by the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports of Reportable Items and Subject Inventions, and a copy of the written statement, if any, submitted with the report of the Reportable Item. The New Technology Representative shall consult with the Patent Representative whenever a question arises as to whether a given Reportable Item is to be considered a Subject Invention or whether it was made in the performance of work under

the contract. All correspondence relating to inventions and waivers under the "New Technology" clause, and election of title under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause will also be forwarded to the Patent Representative.

(c) The Patent Representative shall review each Reportable Item to ascertain whether it is to be considered a Subject Invention, obtain any determinations required by paragraph (b) of the "New Technology" clause, and so notify the contractor. As to any Subject Invention, the Patent Representative shall ensure that the contractor has provided sufficient information to protect the Government's rights and interests therein, including, as required, information and documents necessary for the preparation, filing, and prosecution of patent applications, determinations of inventorship, and the preparation of instruments establishing the Government's rights therein. The Patent Representative shall also, as necessary, conduct selected reviews of the nature set forth in paragraph (a), above, to ensure that Subject Inventions are identified, adequately documented, and timely reported.

(d) Upon receipt of any final report required by the clause, and upon determination that the contract work is complete, the New Technology Representative shall determine whether the contractor has complied with the reporting requirements of the clause. If so, the New Technology Representative shall certify compliance, obtain the Patent Representative's concurrence with such certification, and forward the certification to the contracting officer. Such determinations generally will require consultation with cognizant technical personnel.

(e) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (h) of the "New Technology" clause. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractors books, records and other documents in accordance with paragraph (g) of the "New Technology" clause. However, no action shall be taken by either the New Technology Representative or the Patent Representative which would constitute a final decision under the Disputes clause or involve a change or an increase in the work required to be performed under the contract, or which otherwise is outside the scope of obligations imposed upon the contractor by the contract.

(f) Release of final payment under the contract, and if applicable any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor, shall not be approved by the contracting officer until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence therewith, as specified in paragraph (d), above.

9.109–4 Remedies. If the contractor, for a contract containing the New Technology clause of 9.107–5, fails to establish, maintain, or follow effective procedures for identifying and disclosing Reportable Items or other reports and information or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination, books, records and documents relating to inventions, discoveries, improvements, or innovations in the same field of technology as the contract to enable a determination of whether there are such Reportable Items, and may invoke the withholding provisions of the clause. Further, the contracting officer may invoke the withholding provisions of the clause if the contractor fails to report any Reportable Item as required by the clause.

9.109–5 Conveyance of Invention Rights Acquired by the Government.

(a) Where the Government acquires the entire rights, title, and interest in an invention under the "New Technology" clause of 9.107–5, a determination of title is to be made in accordance with 42 U.S.C. 2457 and reflected in appropriate instruments executed by NASA and forwarded to the contractor. When the Government acquires the entire right, title and interest in an invention under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, assignments are required from the inventor to the contractor and from the contractor to the Government, or from the inventor to the Government with the consent of the contractor, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficent to convey the rights the contractor is required to convey to the Government.

(b) When the contractor is granted a waiver under the "New Technology" clause (see 9.109–6), or elects to retain title under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause and, in either case, timely files a patent application on the invention, an instrument confirmatory of the Government's license rights and other rights is to be obtained.

(c) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register or documented in the Governmental Register maintained by the U.S. Patent and Trademark Office pursuant to Executive Order 9424, February 18, 1944.

9.109–6 Waiver of Rights to Inventions in Contracts Containing the "New Technology" Clause.

(a) Pursuant to the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1, the Administrator may, in appropriate cases in contracts or subcontracts with other than a small business firm or nonprofit organization, grant a request for the waiver of rights to any or all inventions made or which may be made under such contract or subcontract. The conditions, reservations, and obligations of a waiver are set forth in the Waiver Regulations and will be included in the Instrument of Waiver.

(b) Under Section 1245.104 of the Waiver Regulations, advance waiver of rights to any or all inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract by the contractor. Waiver of rights to an identified invention made and reported under a contract may be requested under 14 CFR Section 1245.105. Waiver of rights may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under 14 CFR Section 1245.106 may be requested concurrently with domestic rights or independently thereof.

(c) A request for the waiver of invention rights is made in the form of a petition, the requirements of which are specified in 14 CFR Section 1245.110. Petitions for adance waiver of rights presented prior to contract execution must be submitted through the contracting officer to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. All other petitions shall be submitted directly to this Board. Forms which may be used in petitioning for waiver of invention rights and other general information pertaining thereto may be obtained from the Board.

(d) Subcontractors and prospective subcontractors may petition for waiver of invention rights in the same manner as described in this Subpart for prime contractors. Petitions by subcontractors or prospective subcontractors may be submitted directly to the Board, except that when a petition is made prior to the execution of a contract, it must be submitted to the Board through the NASA contracting officer.

(e) Petitions for advance waiver of rights prior to execution of the contract submitted by organizations selected for

negotiation of a contract and petitions for advance waiver of rights submitted by contractors within 30 days after execution of a contract, will be considered by the Board. Contracting officers should forward petitions submitted prior to execution of the contract to the installation Patent Counsel for processing; the Patent Counsel will then forward the petitions to the Board. If the Board finds that a petition submitted prior to execution of the contract qualified under the criteria set forth in Section 1245.104 of the regulations, it will recommend to the Administrator that waiver be granted and shall inform the contracting officer of the Administrator's determination with respect thereto. Should the Board, in considering a petition for advance waiver of rights prior to the execution of the contract, determine that there is insufficient time or information or other reasons to permit it to make its findings and recommendations to the Administrator without unduly delaying execution of the contract, the Board, through the installation Patent Counsel, will inform the contracting officer of its action and request him to notify the petitioner. The contractor may, within 30 days following execution of a contract, request the Board to reconsider the petition, either on the record or with any additional information which the contractor may care to furnish in support of the original petition. Contractors that have submitted petitions within 30 days after contract execution will be notified directly by the Board of its findings and proposed recommendation.

(f) Petitions for advance waiver should include sufficient information to permit the Board to make the specific findings under Section 1245.104 (c) and (d) of the regulations. These findings relate to the purpose of the contract, the field of science or technology of the contract, the relative commercial versus Government funding in the identified field of science, the commercial position of the contractor relative to the contract work or, if the contractor has not established such a commercial position, other facts which may, nevertheless, qualify the contractor under the "special situations" provisions of the regulations. In addition, Section 1245.104(b) of these regulations permit the Board to recommend to the Administrator the grant of waiver in "exceptional circumstances" when the Board is unable to make some of the specific findings required by the regulations. In the event the petitioner seeks to qualify his advance waiver under the exceptional circumstances provision of the regulations, sufficient information should be submitted to adequately support this finding.

(g) Advanced waiver of invention rights granted under Section 1245.104 of the regulations shall apply only to those inventions reported during the term of the applicable contract and upon which the contractor indicates that he has filed or intends to file an application for U.S. patent. The waiver shall extend to any division or continuation patent application provided the scope of the invention remains substantially the same as that of the reported invention. An advance waiver of rights shall also extend to any contract changes, modifications or supplemental agreements so long as the purpose of the contract or the scope of work to be performed is not substantially altered.

(h) When the "New Technology" clause of 9.107–5 is to be applicable to the procurement, the following provision will be included in the request for proposals:

Waiver of Rights to Inventions (July 1981)

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1, waiver of rights to any or all inventions made or which may be made under a NASA contract or subcontract with other than a small business firm or nonprofit organization may be requested at different time periods. Under Section 1245.104 of the regulations, advance waiver of rights to any or all inventions which may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected Contractor. Waiver of rights to an identified invention made and reported under a contract or subcontract may be requested under 14 CFR Section 1245.105, even though a request for an advance waiver was not made or, if made, was not granted.

(b) If a proposer intends to petition NASA for the waiver of invention rights prior to contract execution, the petition for waiver should be presented with the proposal. Forms which may be used in petitioning for waiver may be obtained from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, DC 20546. The findings which must be made by the Board in order to recommend that a waiver be granted are set forth in 14 CFR Section 1245, Subpart 1.

(c) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. The petitioner may within 30 days following execution of the contract request the Board to reconsider the petition on the record or with any additional information he may care to furnish. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver.

(i) When NASA requests another Government agency to perform work, of a type defined in 9.107–4, on behalf of NASA and it is contemplated that a contract will be awarded, instructions for transmittal of petitions for waiver shall be provided to the other agency in accordance with 9.107–9(a)(6). The NASA Inventions and Contributions Board will consider any petitions and recommend to the Administrator whether or not waiver should be granted. The Administrator's determination will be transmitted to the contractor and the contracting officer of the other agency.

(j) The Board shall inform the installation Patent Counsel of the decision of the Administrator to either grant or deny advance waiver of patent rights. The installation Patent Counsel shall notify the contracting officer and the New Technology Representative of the Administrator's action.

[FR Doc. 81-24656 Filed 8-24-81; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–2, 60–4, 60–20, 60–30, 60–50, 60–60, 60–250, 60–741

Government Contractors; Affirmative Action Requirements; Further Deferral of Effective Date of Regulations

AGENCY: Office of Federal Contract Compliance Programs (OFCCP), Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: The Department of Labor further defers the effective date of the final rule published on December 30, 1980 (at 45 FR 86215), until action is taken on proposed revisions to the rule.

This action is taken in order to permit the proposed rulemaking which appears in today's issue of the **Federal Register.**

For complete information on this action see FR Doc. 81–24575 in Part II of this issue of the **Federal Register.**

DATES: The effective date of this rule is deferred until action is taken on today's proposed rule. The effective date of this deferral is August 25, 1981.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, Washington, D.C. 20210, Telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: On December 30, 1980, the Department of Labor published a final rule (at 45 FR 86215; corrected January 23, 1981, at 46 FR 7332) intended to amend, consolidate, and integrate certain regulatory provisions at 41 CFR Chapter 60 pertaining to the three programs administered by OFCCP: (1) Executive Order 11246, as amended, (2) section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and (3) section 503 of the Rehabilitation Act of 1973, as amended. The rule was scheduled to take effect on January 29, 1981. However, on January 28, 1981 (at 46 FR 9084), pursuant to a request by President Reagan, the effective date of the regulations was delayed to allow full review of the regulations by the new administration. Subsequently, in separate notices in the Federal Register on April 28, 1981 (at 46 FR 23742), June 26, 1981 (at 46 FR 33033), and July 14, 1981 (at 46 FR 36144), the effective date was deferred until August 26, 1981.

In the course of its review the Department of Labor conducted a preliminary regulatory impact analysis, pursuant to Executive Order 12291, of the regulations contained in the December 30, 1980, publication in the Federal Register and of certain other regulations in 41 CFR Chapter 60 which had not been affected by the December 30, 1980, rule. As a result the Department developed a new proposal which amends the December 30, 1980, publication and revises other OFCCP regulations at 41 CFR Chapter 60. As required, the proposal was submitted to the Office of Management and Budget (OMB) pursuant to Executive Order 12291 and to the Equal Employment Opportunity Commission (EEOC) pursuant to Executive Order 12067. Additionally, the Department identified certain other issues affecting the Contract Compliance Program which became the subject of an advance notice of proposed rulemaking published in the Federal Register on July 14, 1981 (at 46 FR 36213).

Since this regulation has never gone into effect and since the agency is proposing to revise this regulation for the reasons stated, it is inappropriate and contrary to the public interest to require compliance with this regulation during the period until a final determination is made.

Under the circumstances, separate notice and public comment on this further deferral of the effective date is impracticable and unnecessary and good cause exists for making this postponement effective immediately. This finding is made pursuant to 5 U.S.C. 553(b)(3)(B).

(E.O. 11246 (30 FR 12319), as amended by E.O. 11375 (32 FR 14303) and by E.O. 12086 (43 FR 46501); sec. 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012); Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793), as amended by Section 111(a), Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706), and by Sections 119 and 122 of the Rehabilitation Comprehensive Services and Development Disabilities Amendment of 1978, Pub. L. 95-602, 92 Stat. 2955, and E.O. 11758)

Signed at Washington, D.C., this 18th day of August, 1981.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

Ellen M. Shong,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 81-24876 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 755-5585, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Fayetteville, Washington County (FI-5583)	West Fork White River	Approximately 100 feet downstream of Huntsville Road (Highway 16).	*1,181
			Approximately 500 feet downstream confluence of Town Branch.	*1,190
			Intersection of McCollum Avenue and Southern Corporate Limits.	*1,236
		Airport Branch	Approximately 120 feet upstream of the eastern Corporate Limits.	*1,230
			Approximately 50 feet downstream of U.S. Highway 71	*1,245
		Town Branch	Approximately 50 feet upstream of Armstrong Road	*1,192
			Approximately 80 feet downstream of Morningside Drive.	*1,199
			Approximately 100 feet downstream of U.S. Highway 71.	*1,211
			Approximately 70 feet upstream of Stirman Avenue	*1,221
		Cato Springs Branch	Just downstream of Cato Springs Road	*1,226
		Tin Cup Creek	Approximately 70 feet upstream of Highway 16 (E. 15th Street).	*1,215
			Approximately 50 feet downstream 7th Street	*1,251
		Clear Creek	Approximately 50 feet upstream of U.S. Highways 71 and 62.	*1,199
		Mud Creek	Just upstream of Johnson Road	*1,181
			Just upsteam of U.S. Highway 71	*1,196
			Approximately 50 feet downstream of Old Missouri Road.	*1,217
		Mud Creek Tributary	Approximately 330 feet upstream of confluence with Mud Creek.	*1,232
			Just downstream of Old Wire Road (Downstream crossin).	*1,270
			Just upstream of Township Road	*1,336
			Old Wire Road at Intersection with Overcast Street	*1,363
			Just upstream of Ash Street	*1,393
			Just upstream of Ramsey Avenue	*1,420
		Scull Creek	Approximately 120 feet upstream of Highway 71 Bypass.	*1,202
			Just upstream of confluence of Sublet Creek	*1,232
			Just upstream of Poplar Street	*1,265
			Just upstream of North Street	*1,308
			Just upstream of Wilson Avenue	*1,336
			Approximately 50 feet upstream of College Avenue (Highway 71).	*1,383
		Sublet Creek	Approximately 120 feet upstream State Highway 180 (Downstream Crossing).	*1,242
			Approximately 150 feet upstream of Township Road (Highway 180).	*1,259
			At Overcrest Street	*1,278
	Maps available for inspection at Inspections Office, City Hall, W. Mount Street, Fayetteville, Arkansas 72701.			
California	Sonoma County (Unincorporated Areas) (FI-5502)	Sonoma Creek	Sears Point Road—100 feet upstream from centerline	*6
			State Route 121—50 feet upstream from centerline	*12
			Watmaugh road—50 feet upstream from centerline	*43
			At confluence with Dowdall Creek	*58
			Verano Avenue—150 feet upstream from centerline	*88
			Agua Caliente Road—50 feet upstream from centerline	*123
			Madrone Road—20 feet upstream from centerline	*163
			Arnold Drive (upstream crossing)—50 feet upstream from centerline.	*224
			Warm Springs Road (upstream crossing)—100 feet upstream from centerline.	*315
			Lawndale Road—100 feet downstream from centerline	*365
			Lawndale Road—100 feet upstream from centerline	*373
			State Route 12—50 feet upstream from centerline	*445
		Nathanson Creek	Splude Road—10 feet upstream from centerline	*22
			Lovall Valley Road—50 feet upstream from centerline	*112
		Arroyo Seco	At confluence with Schell Creek	*12
			Napa Road—75 feet upstream from centerline	*63
			East MacArthur Street—50 feet upstream from centerline.	*84
			Lovall Valley Road—50 feet downstream from centerline.	*117
			Lovall Valley Road—50 feet upstream from centerline	*123
		Fowler Creek	At confluence with Rodgers Creek	*18
			Watmaugh Road—10 feet upstream from centerline	*40
		Rodgers Creek	At confluence with Fowler Creek	*18
			Arnold Drive (downstream crossing)—20 feet upstream from centerline.	*41
			Watmaugh Road—50 feet upstream from centerline	*68
		Champlin Creek	At confluence with Rodgers Creek	*43
			Donnell Road—50 feet upstream from centerline	*85
			Petaluma Road (State Route 116)—10 feet upstream from centerline.	*161
		Schell Creek	State Routes 12 and 121—20 feet upstream from centerline.	*10
			Splude Road—30 feet upstream from centerline	*22
			Napa Road at centerline	*47
		North Kenwood Creek	Mervin Avenue—20 feet upstream from centerline	*401
			State Route 12—25 feet upstream from centerline	*416

Final Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Austin Creek	State Highway 116—20 feet upstream from centerline	*35
			Cazadero Highway—25 feet downstream from centerline	*97
			Cazadero Highway—25 feet upstream from centerline	*102
			Austin Creek Road (upstream crossing)—50 feet upstream from centerline.	*117
		East Austin Creek	At confluence with Austin Creek	*70
		Dutch Bill Creek	Fir Street—20 feet upstream from centerline	*45
			Tyrone Road—50 feet upstream from centerline	*53
			Westminster Woods Bridge—50 feet upstream from centerline.	*155
			Redwood Alliance Bridge—75 feet upstream from centerline.	*177
		Russian River	Moscow Road—10 feet upstream from centerline	*28
			Hacienda Bridge—10 feet upstream from centerline	*72
			Highway 101 Bridge—10 feet upstream from centerline	*89
			State Highway 128—10 feet upstream from centerline	*178
			Geyserville Bridge—210 feet downstream from centerline	*210
			Preston Bridge—50 feet upstream from centerline	*328
		Mount Hood Creek	Lawndale Road—20 feet upstream from centerline	*430
			Pythian Road at centerline	*521
		Fife Creek	Laughlin Road—10 feet upstream from centerline	*61
			Watson Road—50 feet upstream from centerline	*74
		Petaluma River	U.S. Highway 101—10 feet upstream from centerline	*6
			New Corona Road—50 feet upstream from centerline	*25
			Alberti Road at centerline	*33
		San Pablo Bay	At intersection of Sears Point Road and Lakeville Road.	*6
		Sonoma Creek	At the intersection of Freemont Road and State Route 12.	*3
Maps available for inspection at Sonoma County Administration Building, 575 Administration Drive, Santa Rosa, California.				
Florida	City of La Belle, Hendry County (FEMA 5947)	Caloosahatchee River	At Western Corporate Limits	*9
		Stream A	Just upstream of Gulf Atlantic Gladeway (County Road 731).	*14
			Just downstream of Devil Gardens Avenue (County Road 80A).	*19
		Stream B	Just downstream of Main Street (State Highway 29)	*15
			Just upstream of Bridge Street	*16
		Stream C	Just upstream of Bridge Street	*17
		Stream D	Just downstream of Main Street (State Highway 29)	*17
		Stream E	Just upstream of Fort Thompson Avenue	*14
		Stream F	Just upstream of Hickpochee Avenue	*11
			Just downstream of Devil Gardens Avenue (County Road 80A).	*19
Maps available for inspection at City Hall, Highway 80, La Belle, Florida 33935.				
New Mexico	City of Portales, Roosevelt County (FEMA 5824)	18th Street Shallow Flooding	Approximately 100 feet upstream of South Main Avenue.	*3,996
			Approximately 180 feet downstream of South Avenue B.	*3,997
			Just downstream of Avenue F	*3,999
		Shallow Flooding (Ponding) Above Railroad.	Intersection of North Avenue M and West Cherry Street.	*4,009
		Shallow Flooding (Sheet Flow) Below Railroad.	Intersection of West Fifth Street and South Avenue C	#1
Maps available for inspection at City Hall, 100 W. First Street, Portales, New Mexico 88130.				
New York	Hamburg, Village, Erie County (Docket No. FEMA-5883)	Berricks Creek	Downstream Corporate Limits	*752
			Upstream Brookwood Drive (2nd crossing)	*768
			Approximately 310 feet upstream of Sunset Drive	*774
Maps available for inspection at the Hamburg Village Hall, 100 Main Street, Hamburg, New York.				
Tennessee	City of Germantown, Shelby County (FEMA 5835)	Wolf river	Just upstream of Germantown Road	*262
			Confluence fo Wolf River and Wolf River Lateral C	*266
		Wolf River Lateral A	Just downstream of Neshoba Road	*278
			Just upstream of Neshoba Road	*286
		Wolf River Lateral B	Just downstream of Hollow Fork Road	*262
			Just upstream of Hollow Fork Road	*269
			Just upstream of Neshoba Road	*286
		Wolf River Lateral BA	Just downstream of Rebekah Drive	*293
			Just upstream of Ashworth Road	*307
		Wolf River Lateral C	Just upstream of Farmington Boulevard	*288
			Just upstream of Woodcreek Drive	*299
		Wolf River Lateral CA	Just upstream of Kimbrough Road	*271
			Just upstream of Brierbrook Road	*292
		Wolf River Lateral D	Just upstream of Farmington Boulevard	*279
			Just upstream of Dogwood Road	*304
		Wolf River Lateral E	Just upstream of Poplar Avenue (U.S. Highway 72)	*308
		Wolf River Lateral EA	Just downstream of U.S. Highway 72 (Poplar Avenue)	*326
		Howard Road Outfall	Just upstream of McVay Road	*306
			Just downstream of Stout Road	*320
		Howard Road Outfall Lateral A	Just upstream of Riverdale Road	*312
		Howard Road Outfall Lateral AA	Just upstream of Howard Road	*325
Maps available for inspection at City Hall, 1930 Germantown Road South, Germantown, Tennessee 38138.				

Final Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Beeville, Bee County (FEMA 5893)	Poesta Creek	Just upstream of U.S. Business Highway 181 (Washington Street).	*208
			Just downstream of FM 673 (Hugosota Street)	*216
		Hesley Creek	Just upstream of St. Mary's Street	*205
			Just upstream of Southern Pacific Railroad	*209
		Salt Creek	Just upstream of U.S. Business Highway (Northeast Washington Street).	*254

Maps available for inspection at City Hall, 100 West Corpous Christi Street, Beeville, Texas 78102.

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

Issued: August 7, 1981.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-24527 Filed 8-24-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 512, 514, 527, 528, 531, 533, 537, 543, 544 and 552

OMB Clearance Information

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules containing GAO clearance information are amended to reflect OMB control numbers and expiration dates and to inform recipients of information collection requests whether compliance with such request is voluntary or mandatory, as well as the specific benefits they are intended to obtain. The amendment is necessary to comply with the Paperwork Reduction Act of 1980 requirements.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3504 requires the Office of Management and Budget to review and approve information collection requests proposed by agencies and to insure that the requests display OMB control numbers. Such requests must also contain information informing recipients why the information is collected, how it is to be used and the compulsory nature of the requirement, i.e., whether it is voluntary, mandatory, or required to obtain a benefit.

OMB has issued control numbers for FMC requirements that were previously cleared by GAO and the following CFR parts of title 46 are amended to reflect OMB requirements:

PART 512—FINANCIAL REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

(a) Paragraphs 2, 3, and 4 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"OMB Control Number 3072–0008. Expires March 31, 1983."

(b) Remove the Effective Date Note paragraph that appears immediately following the Source paragraph.

(c) Add the following sentence immediately after the last sentence of Section 512.1, paragraph (a):

"Compliance is mandatory and failure to file the reports required under this Part may result in denial of rate increases or rejection of tariff pages inplementing rate changes or penalties of up to $100 for each day of such default (46 U.S.C. 820(a))."

PART 514—FINANCIAL EXHIBITS AND SCHEDULES, NONVESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES

(a) Paragraphs 2 and 3 of the Authority citation containing GAO clearance information should be removed and the following substituted therefor:

"OMB Control Number 3072–0031. Expires March 31, 1983."

(b) Designate the paragraph presently appearing under § 514.1 as (a). Add a new paragraph (b) to read as follows:

"(b) Filing of the information is required only in those instances where the Commission institutes an investigation and hearing with respect to proposed rate changes. Compliance in those instances is mandatory and failure to file the required reports may result in penalties of up to $100 for each day of such default (46 U.S.C. 820 (a))."

PART 527—SHIPPERS' REQUESTS AND COMPLAINTS

(a) Paragraph 2 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"Approved for use through June 30, 1983. OMB No. 3072–0007."

(b) Add a new paragraph (b) to § 527.1 to read as follows:

"(b) Compliance is mandatory and failure to file the required reports may result in disapproval of section 15 agreements or penalties of up to $100 for each day of such default (46 U.S.C. 820(a))."

PART 528—SELF-POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS

(a) Paragraph 2 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"OMB Control Number 3072–0003. Expires February 28, 1982."

(b) Add a new paragraph (c) to § 528.0 to read as follows:

"(c) Compliance is mandatory and failure to file the required reports may result in disapproval of section 15 agreements or penalties of up to $100 for

each day of such default (46 U.S.C. 820(a))."

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

(a) Paragraph 2 of the Authority citation containing GAS clearance infomation should be removed and the following language substituted therefor:

"OMB Control Number 3072-0005. Expires October 31, 1983."

(b) Designate the paragraph presently appearing under Section 531.0 as (a). Add a new paragraph (b) to read as follows:

"(b) Information obtained under this Part is used to determine the propriety of the level of rates, fares, charges, and practices damanded, charged, collected or observed by carriers. Compliance is mandatory and failure of a tariff to conform with the rules of this Part may result in rejection. Violations of the provisions of this Part are also subject to a civil penalty of not more than $1,000 for each day such violation continues (46 U.S.C. 844)."

PART 533—FILING OF TARIFFS BY TERMINAL OPERATORS

(a) Add the following paragraph after the first paragraph in the Authority citation section:

"OMB Control Number 3072–0002. Expires September 30, 1983."

(b) The last sentence of § 533.1 containing GAO clearance information should be removed.

(c) Add the following sentence immediately after the last sentence of § 533.2:

"Compliance is mandatory and failure to file the required tariffs may result in a civil penalty of not more than $100 for each day such violation continues. (46 U.S.C. 820(a))."

(d) Remove the Note paragraph presently appearing at the end of Part 533.

PART 537—CONFERENCE AGREEMENT PROVISIONS RELATING TO CONCERTED ACTIVITIES

(a) Paragraph 2 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"OMB Control Number 3072–0013. Expires January 31, 1982."

(b) Remove the last sentence presently appearing in Section 537.1 and substitute therefor the following sentence:

"Compliance is mandatory and failure to file the required reports may result in disapproval of agreements or penalties of up to $100 for each day of such default (46 U.S.C. 820(a))."

PART 543—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—ALASKA PIPELINE

(a) Paragraph 2 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"OMB Control Number 3072–0016. Expires July 31, 1983."

(b) Add the following sentence immediately after the last sentence of § 543.1:

"Information obtained under this Part is used to determine the financial responsibility of vessel operators. Failure to follow the provisions of this Part may result in denial of a certificate required for loading, carrying and transferring oil. Persons operating without the proper certificate may also be subject to a fine of not more than $10,000 for each such failure to comply. (33 U.S.C. 1321(p)(4))."

PART 544—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—OUTER CONTINENTAL SHELF

(a) Paragraph 2 of the Authority citation containing GAO clearance information should be removed and the following language substituted therefor:

"OMB Control Number 3072–0025. Expires March 31, 1983."

(b) Add a new paragraph (c) to § 544.1 to read as follows:

"(c) Information obtained under this Part is used to determine the financial responsibility of vessel operators. Failure to follow the provisions of this Part may result in denial of a certificate required for the transportation of oil or the assessment of penalties as specified in Section 544.13 of this Part."

PART 552—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES

(a) Add the following paragraph immediately after the first paragraph in the Authority citation:

"OMB Control Number 3072–0028. Expires January 31, 1983."

(b) Number the paragraph presently appearing under § 552.1 as (a). Add a new paragraph (b) to read as follows:

"(b) Information obtained under this Part in used to maintain continuous surveillance over carriers' activities and to provide a deterrent against rebating practices. Failure to file the required reports may result in a civil penalty of not more then $5,000 for each day such violation continues (46 U.S.C. 820(b))."

Effective Date: Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective August 25, 1981.

By the Commission June 25, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-24869 Filed 8-24-81; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register
Vol. 46, No. 164
Tuesday, August 25, 1981

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

Agricultural Marketing Service

7 CFR Part 1098

Milk in the Nashville, Tenn., Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue through November 1981, the suspension of certain order provisions affecting the regulatory status of milk plants under the Nashville, Tennessee, Federal milk order. This action was requested by a handler operating a distributing plant in the regulated area. The same handler requested the suspension now in effect that otherwise would expire on August 31, 1981. The proposed suspension would remove the requirement that a distributing plant have route disposition of at least 50 percent of combined receipts and diversions to qualify as a pool plant.

EFFECTIVE DATE: Comments are due no later than September 1, 1981.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5443.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures and the inclusion of September 1981 in the suspension period if this is found necessary. The initial request for the action was received on August 13, 1981.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Nashville, Tennessee, marketing area is being considered for September 1981 through November 1981.

§ 1098.7 [Amended].

In § 1098.7(a) the words "not less than 50 percent of the" and the words "that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13" are proposed to be suspended.

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than September 1, 1981. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1981 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would continue to make inoperative for September through November 1981 the provision that a distributing plant each month must dispose of at least 50 percent of its milk receipts as route disposition to qualify as a pool plant. The suspension action was requested by Kraft, Inc., which operates a pool distributing plant regulated under the Nashville order. Kraft also had requested the current suspension of these provisions, which was made effective for May through August 1981. In its original request for the suspension, Kraft expressed the belief that the problem for which a suspension was requested would be resolved during the fall months. Kraft now indicates that their April forecast of fall operations may not be realized and that there will continue to be a temporary imbalance in its operations between supply and demand for fluid sales.

In addition to its request for extension of the supension, Kraft has requested that the department hold a public hearing to consider among other things changes in the pooling standards for pool distributing plants. If a hearing is called to consider Kraft's proposal, the record developed at a hearing would serve as the basis for any permanent change in the pooling standards for pool distributing plants. Kraft states that continuation of the suspension is necessary until this issue can be explored on the record of a public hearing. In this way, producers regularly supplying a portion of the market's fluid milk requirements could continue to share in the proceeds of the market's Class I sales. Kraft also contends that if its Nashville plant becomes partially regulated before a hearing is held, other producers in the market will lose the benefit of Class I proceeds contemplated by the milk order program.

Signed at Washington, D.C., on August 20, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-24760 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 221 and 250

[Policy Statements Docket 38348; EDR-404D]

Elimination of Rules Tariffs; Notice to Passengers of Conditions of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Extension of time for comments.

SUMMARY: The CAB is extending for 2 weeks the time for comments in its rulemaking proceeding to eliminate domestic rules tariffs and most Board-prescribed notices to passengers in domestic and foreign air transportation. The Air Transport Association of America requested a 3-week extension. A 2-week extension is being granted in this and other proceedings because of the disruption caused by the air traffic controller situation.

DATES: Comments by September 9, 1981.

Reply Comments by: September 28, 1981.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In EDR-404B, 46 FR 35936, July 13, 1981, the Board proposed to eliminate passenger rules tariffs in interstate and overseas air transportation and to eliminate most of the Board-prescribed notices to passengers in domestic and foreign air transportation. The proposal called for comments by August 24 and reply comments by September 14, 1981.

In EDR-404C, 46 FR 40703, August 11, 1981, we granted a 2-day extension of the initial comment deadline at the request of the American Society of Travel Agents (ASTA), but denied a 90-day extension that had been requested by the International Air Transport Association (IATA). The 2-day extension was granted because of scheduling problems with the comment period in EDR-429, 46 FR 38656, July 28, 1981. The reason for IATA's request was the mail stoppage in Canada. IATA stated that because it did not receive timely notice of the proposal, it could not make a meaningful presentation to the Board by August 24, 1981. The request was denied because IATA's New York office, as well as many members of the association, were served on July 13, 1981.

On August 13, 1981, the Air Transport Association of America (ATA) asked the Board to extend the date for filing initial comments 3 weeks, from August 26, 1981, to September 16, 1981. ATA stated that because of the recent situation concerning air traffic controllers, the attention of carrier personnel has been diverted from the preparation of comments in this rulemaking, and that additional time to comment is needed.

The Board recognizes that the air traffic control situation has caused practical difficulties. A 2-week extension was recently granted in Docket 38585 on these same grounds. Although the issues raised in this rulemaking should be addressed as soon as possible, we want interested persons to have enough time to prepare their comments. Because the air traffic control problems have diverted both the industry's and the public's attention, and because a short delay will not cause significant harm, I find good cause to grant a 2-week extension in this proceeding.

Accordingly, under authority delegated by the Board in 14 CFR 385.20(d), the time for filing initial comments in Docket 38348 is extended to September 9, 1981, and, for reply comments, to September 28, 1981.

(Secs. 204, 403, 411, and 1002 of Pub. L. 85-726, as amended; 72 Stat. 743, 758, 769, 788; 49 USC 1324, 1373, 1381, 1482)

Dated: August 17, 1981.

Mark Schwimmer,

Acting Associate General Counsel, Rules and Legislation.

[FR Doc. 81-24728 Filed 8-24-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 1

Procedures for Predetermination of Wage Rates

Correction

In FR Doc. 81-23735 appearing at page 41444, in the issue for Friday, August 14, 1981, make the following correction:

On page 41450, in the first column, in § 1.7(b), the fourth line should have read: "determination, wages paid on similar".

BILLING CODE 1505-01-M

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts

Correction

In FR Doc. 81-23495, appearing at page 41380 in the issue for Friday, August 14, 1981, make the following corrections:

(1) On page 41381, in the middle column, in the last paragraph, in the sixth line, the last word should be "in-depth".

(2) On page 41387, in the middle column, in paragraph (d) (§ 4.4(d)), in the twelfth line, the last word should be "biennial".

BILLING CODE 1505-01-M

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Correction

In FR Doc. 81-23736, appearing at page 41456 in the issue for Friday, August 14, 1981, please make the following corrections:

(1) On page 41456, in the third column, in the second line, the word "wil" should have read "will".

(2) On page 41457, in the first column, in the fifth line, after "Department's", please insert "Employment Training Administration. Accordingly,".

(3) On page 41458, in the first column, on the second line, the word "costs" should be "cost".

(4) On page 41458, in the first column, in the second full paragraph, in the fourth and nineteenth lines, the word "ration" should have read "ratio".

(5) On page 41458, in the middle column, in the first complete paragraph, in the second line, the word "form" should have read "from".

(6) On page 41460, in the middle column, in paragraph (1) (§ 5.2(l)(1)), in the sixth line, after the word "section" please insert a comma.

(7) On page 41462, in the third column, in paragraph (4) (§ 5.5 (a)(4)), in the seventh line, the word "appreticeship" should have read "apprenticeship".

(8) On page 41463, in the second column, in paragraph (6) (§ 5.5(a)(6)), in the sixth line, the word "be" should have read "by".

(9) On page 41464, in the third column, in paragraph (3) (§ 5.6(a)(3)), in the twenty-first line, after the word "determination", delete the comma.

(10) On page 41470, in § 5.17, in the second line, after Administration", delete the comma.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Arkansas Permanent Regulatory Program (hereinafter referred to as the Arkansas Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Arkansas program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on September 25, 1981 to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for September 21, 1981 from 7:00 p.m. to 9:00 p.m.

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and phone number listed below by September 9, 1981. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be canceled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: Written comments should be mailed or hand-delivered to: Raymond L. Lowrie, Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

The public hearing will be held at Executive Inn, Room 305–307, 707 Highway I–30, Little Rock, Arkansas 72204.

Copies of the Arkansas program, the proposed modifications to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM Region IV Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Region IV, Scarritt Building, 5th Floor, 818 Grand Avenue, Kansas City, Missouri 64106

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Division of State and Federal Programs, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 19, 1980, OSM received a proposed regulatory program from the State of Arkansas. On November 14, 1980, following a review of that proposed program as outlined in 30 CFR 732, the Secretary approved the program subject to the correction of four minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980, **Federal Register** (45 FR 77003–77017).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Arkansas program can be found in the November 21, 1980, **Federal Register** (45 FR 77003–77017).

The Secretary of the Interior determined that the Arkansas program contains four minor deficiencies.

1. The penalties for persons convicted of interfering with Arkansas Department of Pollution Control and Ecology (DPCE) employees in the performance of their duties, as provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101, were less stringent than the penalties of Section 704 of SMCRA.

2. Arkansas regulation Section 786.19(h) referenced State law rather than Federal law regarding proof of payment of all reclamation fees before permit approval, contrary to 30 CFR 786.19(h).

3. Arkansas did not place a limit on the time within which adjudicatory hearings on proposed civil penalties will be held.

4. Arkansas regulations Section 940.1(a) did not incorporate the criteria for granting temporary relief during administrative review required by Section 525(c) of SMCRA.

In accepting the Secretary's conditional approval, Arkansas agreed to correct deficiency number 1 by April 15, 1981, and deficiencies 2, 3 and 4 by January 1, 1981.

The Arkansas Department of Pollution Control and Ecology (DPCE) adopted Minute Order 80–69 on November 21, 1980, and furnished a copy to OSM on January 19, 1981 (See Arkansas Administrative Record AR–223). Minute Order 80–69 contains (1) an amendment to require that mine permit applicants submit proof that all reclamation fees required by Section 402 of Pub. L. 95–87 have been paid before permit approval, as required by 30 CFR 786.19(h) and (2) an amendment placing a sixty-day limit on the time within which adjudicatory hearings on proposed civil penalties will be held. These two amendments were submitted to correct deficiencies 2 and 3. The Secretary now seeks public comment on whether the amendment correct these deficiencies.

On September 2, 1980, OSM received a letter from the Arkansas DPCE (See Arkansas Administrative Record, AR–192) transmitting revisions to Arkansas regulation 940.1(a) providing criteria for temporary relief during administrative proceedings. Although this amendment was received prior to the November 21, 1980, decision and appeared to be consistent with Section 525(c) of SMCRA, it could not be considered for purposes of that decision because it provided for the Arkansas program (See 45 FR 50821, July 31, 1980). The Secretary now seeks public comment on whether the amendment to § 940.1(a) corrects deficiency number 4.

On March 12, 1981, OSM received a letter from the Arkansas DPCE (See Arkansas Administrative Record, AR–224) transmitting a copy of Senate Bill 191 which had been signed by Governor Frank White on March 5, 1981. Senate Bill 191 amended Section 19 of Act 134 of 1979, as amended, making it a crime to resist, prevent, impede, or interfere with the Director of the Arkansas DPCE or his agents and specifying a penalty of not more than $5,000 or imprisonment for not more than one year both upon conviction. This amendment was submitted to correct deficiency number 1. The Secretary now seeks public comment on whether the amendment corrects that deficiency.

Additional Determinations

Compliance with the National Environmental Policy Act. The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: July 9, 1981.

[FR Doc. 81-24735 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 916

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Kansas Permanent Regulatory Program (hereinafter referred to as the Kansas Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Kansas program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on September 25, 1981 to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for September 23, 1981 from 7:00 p.m. to 9:00 p.m.

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and phone number listed below by September 9, 1981. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellations will be published in the **Federal Register.**

ADDRESSES: Written comments should be mailed or hand delivered to: Raymond L. Lowrie, Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

The public hearing will be held at Holiday Inn, Highway 69 North, Pittsburg, Kansas.

Copies of the Kansas program, the proposed modifications to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM Region IV Office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106

Mined-Land Office, 107 West 11th Street, Pittsburg, Kansas 66762

Kansas Corporation Commission, Legal Office, State Office Building, 4th Floor, 915 Harrison, Topeka, Kansas 66617.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Division of State and Federal Programs, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 274-3920.

SUPPLEMENTARY INFORMATION: On February 26, 1980, OSM received a proposed regulatory program from the State of Kansas. On September 4, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 58569-59576). The State of Kansas resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of six minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981, **Federal Register** (46 FR 5892-5899).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Kansas program can be found in the January 21, 1981, **Federal Register.** (46 FR 5892-5899).

The Secretary of the Interior determined that the Kansas program contains six minor deficiencies.

1. Sections 49-411 and 49-412 of the Mined Land Conservation and Reclamation Act (MLCRA) allow the State regulatory authority to authorize deferred planting and delayed reclamation. These provisions are capable of implementation in a manner inconsistent with Section 515(b)(10) of SMCRA which requires reclamation as contemporaneously as practicable with mining.

2. Sections 49-413 and 49-414 of the MLCRA allow the State regulatory authority to authorize bond release upon a determination that a satisfactory vegetative cover has been established. These sections are inconsistent with Sections 515(b)(20) and 519(c) of SMCRA which require an operator to assume a five year minimum period of responsibility for successful revegetation.

3. Section 49-421 of the MLCRA limits mandatory civil penalties for cessation orders to $250. This provision is inconsistent with and less stringent than Section 518(a) of SMCRA which authorizes mandatory penalties of up to $5,000. The Kansas MLCRA also contains a provision (Section 49-405c) that establishes a maximum penalty of $5,000. Apparently, Kansas inadvertently failed to repeal Section 49-421 when Section 49-405a was enacted. Kansas State law (Section 49-405c) and regulations provide for penalties consistent with Federal law and regulations.

4. Section 49-416 of the MLCRA is inconsistent in part with Section 521 of SMCRA (and Section 49-405(m) of the MLCRA) because it allows for discretionary permit revocation as distinguished from the mandatory cessation orders required under Section 521 for violations creating imminent danger to public health or safety or causing imminent environmental harm.

5. The Kansas program contains no counterpart to Section 704 of SMCRA concerning protection of employees of the Kansas Mined Land Conservation and Reclamation Board equivalent to the protection afforded Federal employees under Section 704.

6. Sections 49-422 and 49-422a of the MLCRA are inconsistent with each other (the retention of Section 49-422 may have been inadvertent) and neither Section states whether judicial review of an administrative action will be *de novo* or on the record made before the Mined Land Conservation and Reclamation Board. To the extent that the Kansas program provides for trial *de novo* review of an administrative action such review must incorporate procedures adequately addressing the seven criteria

enumerated in finding 4(p) of the Federal Register notice announcing the initial decision on the Kansas program (45 FR 58573, September 4, 1980).

In accepting the Secretary's conditional approval, Kansas agreed to correct the deficiencies by June 1, 1981.

The Kansas legislature adopted and Governor John Carlin approved Kansas House Bill 2182 on May 14, 1980, and furnished a copy to OSM on May 25, 1981 (see Kansas Administrative Record KS-234). House Bill 2182 provides for the following:

(1) Amends Section 49-411 of the MLCRA to remove the discretion to allow deferred planting and repeals Section 49-412 of the MLCRA which allows the State regulatory authority to authorize delayed reclamation.

(2) Repeals Sections 49-413 and 49-414 which were inconsistent with SMCRA in that these sections allowed the State regulatory authority to authorize bond release upon a determination that a satisfactory vegetative cover had been established. Sections 515(b)(20) and 519(c) of SMCRA require an operator to assume a five-year minimum responsibility for successful revegetation.

(3) Repeals Section 49-421 of the MLCRA which limited mandatory civil penalties for cessation orders to $250. This section was inconsistent with and less stringent than Section 518(a) of SMCRA which authorizes mandatory penalties of $5,000. The Kansas MLCRA also contains a provision in Section 49-405c that establishes a maximum penalty of $5,000. Apparently, Kansas inadvertently failed to repeal Section 49-421 when 49-405c was enacted.

(4) Repeals Section 49-416 of the MLCRA which was inconsistent with Section 521 of SMCRA in that it allowed for discretionary permit revocation as distinguished from the mandatory cessation orders required under section 521 for violations creating imminent danger to public health or safety or causing imminent environmental harm.

(5) Enacted a provision to provide for the protection of employees of the Kansas Mined Land Conservation and Reclamation Board equivalent to the protection afforded Federal employees under Section 704 of SMCRA.

(6) Repeals Section 49-422 and amends Section 49-422a of the MLCRA to include a provision that judicial review will be on the record made before the Mined Land Conservation and Reclamation Board.

Kansas has enacted this legislation to correct the six deficiencies to its program. The Secretary now seeks public comment on whether the legislation corrects these deficiencies.

Additional amendments

In addition to repealing and amending the MLCRA sections listed above in SUPPLEMENTARY INFORMATION to satisfy the conditions of approval as outlined in the January 21, 1981, Federal Register notice 5892-5899, Kansas enacted the following section to the MLCRA:

(1) Section 49-403 of the MLCRA is amended to include the definitions of geologist and geology.

(2) Section 49-405c of the MLCRA is amended to include a provision that a penalty be placed in an interest-bearing escrow account in the event the person contests the amount of the penalty or the fact of the violation.

(3) Section 49-406 is amended to include:

(a) provision for geologists to certify maps that accompany permit applications;

(b) bonding requirements may be satisfied by depositing cash, negotiable bonds, negotiable certificates of deposit or irrevocable letters of credit with the State treasurer.

(4) Added a provision excluding the extraction of coal incidental to highway construction from the provisions of the Kansas MLCRA.

(5) added a provision creating the mined-land reclamation fund in the State treasury.

Additional Determinations

Compliance with the National Environmental Policy Act. The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Dated: July 9, 1981.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 81-24736 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 925

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for hearing.

SUMMARY: OSM is announcing procedures for the public comment period and opportunity for a hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Missouri Permanent Regulatory Program (hereinafter referred to as the Missouri Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Missouri program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedure that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on September 25, 1981 to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for September 22, 1981 from 7:00 p.m. to 9:00 p.m.

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and phone number listed below by September 9, 1981. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

ADDRESSES: Written comments or requests for a public hearing should be mailed or hand delivered to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

The public hearing will be held at Federal building, 601 E. 12th, Kansas City, Missouri.

Copies of the full text of the Missouri program, the proposed modifications to the program, a listing of scheduled public meetings and copies of all written comments are available for review at the OSM Region IV Office and the central office of the Missouri Land Reclamation Commission listed below, Monday through Friday, 8 a.m. to 4 p.m. excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106

Missouri Land Reclamation Commission, 1026-D N.E. Drive, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, State and Federal Programs Division, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 1, 1980, OSM received a proposed regulatory program from the State of Missouri. On November 14, 1980, following a review of that proposed program as outlined in 30 CFR 732, the Secretary approved the program subject to the correction of minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980, **Federal Register** (45 FR 77027–77028).

Information pertinent to the general background, revision and modification to the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017–77027). The final rules of the conditional approval are published in the November 21, 1980, **Federal Register** (45 FR 77027–77028) and are codified as 30 CFR 925.

The Secretary of the Interior determined that the Missouri program contains various minor deficiencies. These deficiencies are as follows:

1. The Missouri program did not provide 21 program provisions as specified in 30 CFR 925.11(a).

2. The Missouri program did not provide provisions relating to permitting requirements and performance standards for undergound mining as specified in 30 CFR 925.11(b).

3. The Missouri program did not provide provisions that are as stringent as those in Section 704 of the Surface Mining Control and Reclamation Act of 1977 relative to protection of Missouri Land Reclamation Commission employees performing their duties as specified in 30 CFR 925.11(c).

In accepting the Secretary's conditional approval, Missouri agreed to correct deficiencies 1 and 2 by April 1, 1981, and deficiency number 3 by October 1, 1981.

To correct deficiencies 1 and 3 above, Missouri submitted fully enacted rules on December 8, 1980. The provisions submitted to correct deficiency number 1 are published in the *Missouri Register*, August 1, 1980 (5 MO Reg 859–862), September 2, 1980 (5 MO Reg 1149–1150), and November 3, 1980 (5 MO Reg 1337–1338); also see administrative record document number MO–223. Provisions to correct deficiency number 3 are published in the *Missouri Register*, August 1, 1980 (5 MO Reg 860), amending Missouri rule 10 CSR–6.07(12). Also see administrative record document number MO–213.

Missouri has submitted enacted rules to correct deficiency number 2 above. These rules were published in the *Missouri Register*, December 1, 1980 (5 MO Reg 1432–1436). Also see administrative record document number MO–230. The Secretary now seeks public comment on whether the provisions submitted correct these deficiencies.

If the program amendments are approved, the conditions specified in 30 CFR 925.11 (a), (b) and (c) will be repealed.

ADDITIONAL DETERMINATIONS:

Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Dated: July 9, 1981.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 81–24737 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 70

[DoD Directive 1332.28]

Discharge Review Boards (DRB); Procedures and Standards

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The current Part 70 of this title does not specifically prescribe time limits for submission of applications for reconsideration of previous Discharge Review Board decisions. Additionally, the current Part 70 of this title allows an individual to obtain a successive variety of hearings. The proposed change specifies time limits for reconsideration and limits the individual to one opportunity for reconsideration.

DATES: Written comments must be received by October 18, 1981.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel & Force Management), the Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Colonel John L. Fugh, USA, 202–697–9283.

SUPPLEMENTARY INFORMATION: In FR Doc. 78–8638 appearing in the **Federal Register** on March 31, 1978 (43 FR 13564), the Office of the Secretary of Defense published Part 70 of this title. In FR Doc. 79–39457 and in FR Doc. 81–19456 appearing in the **Federal Register** on December 27, 1979 (44 FR 76486) and in July 2, 1981 (46 FR 34574), respectively amendments to Part 70 were issued.

PART 70—DISCHARGE REVIEW BOARDS (DRBs) PROCEDURES AND STANDARDS

OSD proposes to amend further § 70.5 of this title by revising paragraph (b)(8) to read as follows:

§ 70.5 Discharge review procedures.

* * * * *

(b) *Conduct of reviews.* * * *

(8) *Reconsideration.* (i) An applicant may submit a written request for reconsideration of a previous review to the DRB concerned with such other statements, affidavits, or documentation as desired. The request, which shall be made on DD Form 293 (See § 70.5(a)(1)) shall specify the reasons for reconsideration.

(ii) Reconsideration of a previous review shall be granted only when the DRB determines that the request for reconsideration meets one of the following criteria:

(A) Prior consideration on motion of DRB: The only previous review of the applicant's discharge was initiated on the motion of the DRB and the request is submitted on or before January 1, 1984, or within 15 years after the date of the applicant's discharge, whichever is later.

(B) Prior consideration involved a record review: (*1*) The applicant's discharge has not been reviewed in a hearing that involved either an appearance by the applicant or an appearance on behalf of the applicant by counsel/representative, and the request is for such a hearing with such an appearance; and

(*2*) The request is submitted on or before January 1, 1984, within 15 years after the date of the applicant's discharge, or within two years after the date of the decisional document that is the subject of the request, whichever is later; and

(*3*) The provisions of § 70.5(f) do not apply.

(C) Expressly retroactive change in discharge policy: There is a change in discharge policy subsequent to the previous review of the applicant's discharge, the new policy is made expressly retroactive to the type of discharge received by the applicant, and the request is submitted on or before

January 1, 1984, within 15 years after the date of the applicant's discharge, or within two years after the effective date of the new policy, whichever is later.

(D) Change in discharge policy resulting in a substantial enhancement of rights: There is a change in discharge policy subsequent to the previous review of the applicant's discharge, the DRB determines that the new policy represents a substantial enhancement of the rights afforded the applicant, and the request is submitted on or before January 1, 1984, within 15 years after the date of the applicant's discharge, or within two years after the effective date of the new policy, whichever is later.

(E) New evidence: The applicant submits evidence that was not reasonably available at the time of the previous review, the DRB determines that the evidence is new, substantial, and relevant, and the request is submitted on or before January 1, 1984, within 15 years after the date of the applicant's discharge, or within two years after the evidence was discovered or reasonably should have been discovered by the applicant.

(F) Prior review conducted before adoption of uniform standards: The only previous review of the applicant's discharge was conducted before publication of the uniform discharge review standards on March 29, 1978, and the request is submitted within 15 years after the date of the applicant's discharge.

* * * * *

(Title 10, U.SC. 1553 and Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 96-126, October 8, 1977)

August 20, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 81-24710 Filed 8-24-81; 8:45 am]

BILLING CODE 3810-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Revocation of Obsolete Regulations

AGENCY: Veterans Administration.

ACTION: Proposed revocation of obsolete and superfluous regulations.

SUMMARY: The Veterans Administration is proposing to revoke a number of obsolete and superfluous regulations. The provisions of these regulations have been either incorporated into other regulations or have been made obsolete by subsequently enacted legislation.

DATES: Comments must be received on or before September 23, 1981. We propose to revoke these regulations the date of final approval.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 5, 1981.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr., 202-389-3005.

SUPPLEMENTARY INFORMATION: We propose to revoke 38 CFR 3.1550, 3.1552 through 3.1556, 3.1558, 3.1559, 3.1561, 3.1562, 3.1564 through 3.1568, 3.1570 through 3.1575, 3.1690 and 3.1691. The provisions of these regulations have been either incorporated into other sections of part 3, title 38, Code of Federal Regulations or are obsolete. For example, § 3.1555 provides that multiple sclerosis developing to a degree of 10 percent within 3 years from discharge shall be considered to have been incurred in or aggravated in service. This 3-year presumptive period was subsequently extended to 7 years and now appears in § 3.307(a)(3) together with the presumptive provisions applicable to other chronic diseases.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until October 5, 1981. Any person visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 18, 1981.

Robert P. Nimmo,

Administrator.

PART 3 [AMENDED]

It is proposed to amend Part 3, Title 38, Code of Federal Regulations by removing §§ 3.1550, 3.1552 through 3.1556, 3.1558, 3.1559, 3.1561, 3.1562, 3.1564 through 3.1568, 3.1570 through 3.1575, 3.1690 and 3.1691 as follows:

Sec.

3.1550 Instructions relating to the computation of annuities or pensions received from the Railroad Retirement Board as income for pension purposes.

3.1552 Instructions relating to assistance in acquiring specially adapted housing to seriously disabled veterans.

3.1553 Implementation of the provisions of the "Veterans' Pension Act of 1959."

3.1554 Amendment to 38 U.S.C. 511 and 512 permitting Indian War and Spanish-American War veterans to elect to receive pension under the provisions of Public Law 86-211.

3.1555 Presumption of service connection for multiple sclerosis under 38 U.S.C. 312(4), as amended by Public Law 86-167.

3.1556 Presumption of service connection for Hansen's disease (leprosy) under 38 U.S.C. 312, as amended by Public Law 86-188.

3.1558 Title 38, United States Code 106a, as modified by Public Law 86-142. Recognition of service in the Women's Army Auxiliary Corps (WAAC) as active military service for persons who subsequently performed service in the Armed Forces.

3.1559 Instructions relating to accumulation and final disposition of certain benefits in the case of incompetent veterans.

3.1561 Payment of benefits to children on account of the death of more than one parent in the same parental line.

3.1562 Change in method of determining basic pay for purposes of computing dependency and indemnity compensation under Public Law 86-492.

3.1564 New effective date for payment of additional compensation for dependents.

3.1565 Additional compensation for veterans having four or more children and whose disability is 50 percent or more disabling.

3.1566 Additional disability compensation for certain seriously disabled veterans.

3.1567 Title 38, United States Code 560, 561 and 562 as changed by Public Law 87-138, Medal of Honor Roll; persons eligible and provisions relating to special pension.

3.1568 Inceased dependency and indemnity compensation in certain wartime cases.

3.1570 Instructions relating to rates of compensation to be assigned certain veterans with service-connected blindness of one eye and non-service-connected blindness of the other eye or with service-connected loss or loss of the use of one kidney and non-service-connected involvement of the other kidney.

3.1571 Increased compensation.

3.1572 Instructions relating to the payment of additional aid and attendance allowance under 38 U.S.C. 314(r) during periods of hospitalization at Government expense.

3.1573 Presumption of service-connected multiple sclerosis under 38 U.S.C. 312(4) as amended by section 3, Public Law 87-645.
3.1574 Denial of benefits because of conduct of widow.
3.1575 Restoration of benefits for widows and children upon annulment of their remarriage or marriage.
3.1690 Instructions relating to the effect of admission of the State of Alaska into the Union on payment of burial benefits.
3.1691 Effect of admission of the State of Hawaii into the Union on payment of burial benefits.

[FR Doc. 81-24671 Filed 8-24-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-4-FRL-1892-1]

Standards of Performance for New Stationary Sources; Proposed Alternative Performance Test Requirement for Primary Aluminum Plant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish an alternative performance testing frequency requirement for Anaconda Aluminum's Sebree plant in Henderson, KY, as provided in 40 CFR 60.195(b). Rather than conduct monthly performance tests, this source would be allowed to test once a year. The public is invited to submit written comments on this proposal.

DATE: Written comments must be received on or before September 24, 1981.

ADDRESSES: Comments should be submitted in writing to the Director, Air & Hazardous Materials Division, EPA Region IV, 345 Courtland St., NE, Atlanta, GA 30365. Background information and comments received on the proposal will be available for public inspection at the same address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joe Riley, Air Facilities Branch, Air & Hazardous Materials Division, EPA Region IV, Atlanta, GA at 404/881-2786 (FTS 257-2786).

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of Section 111 of the Clean Air Act. Under the original standards, the affected source was required to conduct a performance test on startup and on any other occasion the Agency might require a test under Section 114 of the Clean Air Act. On June 30, 1980 (45 FR 44202), EPA revised 40 CFR 60.195 to require performance testing at least once a month for the life of a new primary aluminum plant. At the same time, however, the Agency provided that alternative test requirements could be established for the primary control system or an anode bake plant if the source can demonstrate that emissions have low variability during day-to-day operations.

On April 12, 1977, EPA delegated to the Commonwealth of Kentucky authority to administer Subpart S of 40 CFR Part 60. Under the terms of the delegation, performance tests were to be scheduled and performed in accordance with the procedures set forth in 40 CFR Part 60 "unless alternate methods or procedures are approved by the EPA Administrator." Accordingly, the Kentucky Department for Natural Resources and Environmental Protection has transmitted to EPA for its approval a petition for alternative test requirements submitted by Anaconda Aluminum of Henderson, Kentucky.

Anaconda Aluminum is requesting three changes in the testing requirements established for primary aluminum plants by 40 CFR Part 60. Specifically, the source wishes to be allowed to (1) use the historic mean for primary emissions to calculate total monthly potroom group emissions instead of emissions from the most recent test; (2) change the frequency of testing the anode bake plant from once a month to once a year; and (3) change the frequency of testing the primary control system from once a month to once a year.

On the basis of the supporting information submitted, EPA proposes to grant the latter two requests since they meet the requirements of 40 CFR 60.195(b). Actual emissions from the primary control system are far below allowable emissions; month-to-month variations in anode bake plant emissions, which are well below the allowable, are not great enough to likely result in emissions in excess of the standard for fluorides.

The Agency does not find that the first request can be justified under 40 CFR 60.8(b), however. To use the average of all past performance tests of the primary system to calculate emissions would defeat the purpose of periodic testing, which is to detect any deterioration in the control system.

The alternative test requirements proposed today would apply only to the Sebree production plant of Anaconda aluminum in Henderson, KY. They would not preclude the Agency or the Commonwealth of Kentucky from requiring performance testing at any time. Finally, they could be withdrawn at any time the Administrator found they were not adequate to assure compliance with emission standards applicable to this source.

The public is invited to participate in this rulemaking by submitting written comments on the proposed alternative test requirements. After considering carefully all pertinent comments received, the Administrator will take final action on Anaconda Aluminum's petition under 40 CFR 60.195(b).

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed action will not if promulgated have a significant economic impact on a substantial number of small entities. The reason for this finding is that this action only affects one entity.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it would merely relieve one source of part of the burden of demonstrating compliance.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Section 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a))

Dated: August 14, 1981.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 81-24711 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-6-FRL 1911-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Texas has requested revision of the particulate matter (TSP) air quality status designation for one area in El Paso, from nonattainment to attainment. On November 26, 1979, Texas submitted the revision request to the EPA in Texas Air Control Board (TACB) Resolution R79-5. This notice proposes approval of the attainment status designation and solicits public comment.

DATES: Comments must be received on or before September 24, 1981.

ADDRESSES: Submit comments to: Air Program Branch, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FURTHER INFORMATION CONTACT: Estela S. Wackerbarth, Chief, Implementation Plan Section, Air and Hazardous Materials Division, EPA Region 6, Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d) of the Clean Air Act, amended in 1977, directed each State to submit to the Administrator a list of identifying areas within the State and their status with regard to attainment of the National Ambient Air Quality Standards. On March 3, 1978, at 43 FR 9037, the Administrator promulgated nonattainment designations for the State of Texas for TSP and other pollutants. The area known as El Paso 5 [1] was designated as nonattainment for the TSP standard (40 CFR 81.344). These designations were effective immediately and public comment was solicited. On September 11, 1978, the Agency made certain changes (not here relevant) to the March 3, 1978, designations.

Section 107(d)(5) of the Clean Air Act allows a State to revise and resubmit as appropriate an amended list of areas to the Administrator. The State of Texas has amended its list by revising its original designation of the El Paso 5 area from nonattainment to attainment for TSP and on November 26, 1979, submitted the revision request to EPA in TACB Resolution R79–5.

The information supporting redesignation of the El Paso 5 area was evaluated on the basic of the most recent ambient air monitoring data available. The TSP data from the El Paso 5 area is summarized below. The units are ug/m³ (micrograms per cubic meter).

Year	Dust storm data (ug/m³)	Non-dust storm high	Data (ug/m³) 2nd high
1978		194	127
1979	367, 159	[1](173), 152	130
1980	335, 189	157	95

[1]Incorrect reading corrected to 37 ug/m³.

There was one exceedance of the particulate secondary standard in 1978; however, one exceedance of 150 ug/m³ (per year) can occur without violating the federal secondary particular standard 40 CFR 50.7. In 1979, there were three exceedances. One of these (173 ug/m³) however, was due to an incorrect recording which has now been corrected by the El Paso City-County Health Unit. The correct reading is 37 ug/m³. The other two days with recorded exceedances were dust storm days. The 1980 data collected for the January–September period also shows three exceedances, two of which occurred on dust storm days.

The above data and verification between EPA and TACB indicating that the exceedances occurred on valid dust storm days show that there were no violations of the TSP standard for eight quarters. Therefore, EPA proposes to redesignate the El Paso 5 area from nonattainment to attainment.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it is merely proposing to approve a State action. It will impose no new regulatory action.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that attainment status redesignations under Section 107(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule if promulgated constitutes an attainment status redesignation under Section 107(d) within the terms of the January 27 certification. This action imposes no regulatory requirements but only changes area air quality designation. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

This notice of proposed rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

Dated: June 26, 1981.

Frances E. Phillips,

Acting Regional Administrator.

Evaluation Report—Redesignation for the El Paso 5 Area

Requirements for Approval of Redesignation

—Under Section 107(d)(5) of the clean Air Act the State may from time to time review and as appropriate revise and resubmit, the list required under this subsection. The Administator shall consider and promulgate such revised list in accordance with this subsection.

—Review of Redesignation request is based upon the Rhoads memorandum "Section 107 Redesignation Criteria" dated June 12, 1979:

—Redesignation is based upon the most recent data available,

—Generally, eight (8) quarters of data are required showing no violations, or

—If at least four quarters of ambient data are available showing no violations have occurred since real emission reductions and a demonstration is presented to show that the reductions are responsible for the air quality improvement.

Evaluation of the El Paso 5 Area

On November 26, 1979, the Texas Air Control Board (TACB) submitted to EPA in Resolution R79–5 their request for redesignation to change the El Paso 5 area from nonattainment to attainment for Total Suspended Particulate (TSP).

This redesignation request has been evaluated based upon data collected during the years 1978, 1979, and 1980.

—In 1978, one exceedance occurred at 194 μg/m³ (micrograms per cubic meter): however, one exceedance of 150 μg/m³ can occur without violating the federal secondary particulate standard 40 CFR 50.7.

—In 1979, three exceedances occurred. One exceedance (173 μg/m³) was due to an incorrect recording which was corrected as 37 μg/m³ by the El Paso City-County Health Unit. The other two days were March 22, 1979 and April 27, 1979 with exceedances of 159 μg/m³ and 367 μg/m³ respectively. These TSP concentrations are attributed to dust storm days as discussed between EPA's Regional Meteorologist and TACP's Meteorologist. (Dust Storm discussion found in December 22, 1980 memorandum "Comments on El Paso 5 Redesignation" from Henry Winders, Chief of the Ambient Monitoring Section to Estela Wackerbarth, Chief of the State Implementation Plan Section.)

—The 1980 data also showed three exceedances two of which were dust storm days. On March 22, 1980 with an exceedance of 189 μg/m³, the El Paso airport reported visibility reduced to 3 miles in blowing dust and on June 8, 1980 with an exceedance of 335 μg/m³, a local dust storm occurred west of the Franklin Mountains in El Paso. (Also discussed in Dec. 22, 1980 Memorandum.) The third exceedance of 157 μg/m³ on June 20, 1980 can occur without violating the federal secondary particulate standard.

[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 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.

El Paso 5 TSP Data

Year	Dust storm data (μg/m³)	Non-dust storm data (μg/m³)	
		High	2nd high
1978		194	127
1979	367, 159	[1] 173, 152	130
1980	335, 189	157	95

[1] Incorrect recording corrected to 37 μg/m³.

Based upon the above data showing violations due to incorrect readings, and dust storm days and the fact that one exceedance per year can occur without violating the federal secondary standard, EPA is proposing the El Paso 5 area to be redesignated from nonattainment to attainment for the criteria pollutant TSP.

[FR Doc. 81-24712 Filed 8-24-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 762

[OPTS-66005C; TSH-FRL1894-8]

Fully Halogenated Chlorofluoroalkanes; Essential use Exemption Spinnerette Release Agents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA promulgated a rule published in the **Federal Register** of January 21, 1981, (46 FR 5981) revoking the exemption to the chlorofluorocarbon (CFC) rule (43 FR 11318) for spinnerette release agents. EPA is now proposing to reinstate the spinnerette release agents exemption to the fully halogenated chlorofluorocarbon (CFC) rule. In taking this action, EPA is responding to new information that adequate substitutes do not exist and cannot be developed and adopted for all applications and all man-made fiber producers by March 1, 1982, the effective date of the revocation.

DATES: All written comments and requests for a public hearing should be submitted by September 24, 1981. The opportunity for oral comments will occur on October 9, 1981. See below, unit V, for details.

ADDRESSES: Written comments should be addressed to the Document Control Officer for this proposed rulemaking and should bear the identifying notation "OPTS-66005C."

Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460.

For information on requests for public hearing see SUPPLEMENTARY INFORMATION item V.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

On January 21, 1981, EPA promulgated a rule revoking the exemption for the use of fully halogenated chlorofluorocarbon (CFC) propellants in spinnerette release agents (46 FR 5981). This rule becomes effective March 1, 1982. This action was based upon EPA's conclusion that the development of adequate substitutes for CFC's in spinnerette release agents had progressed to the point where they would be widely available by March 1, 1982. Since promulgation, the Man Made Fiber Producer Association (Association), a fiber industry trade group representing companies using spinnerette release agents, and some companies that manufacture man-made fibers have presented EPA with additional information indicating that adequate substitutes will definitely not be available for all processes and applications by the March 1, 1982 deadline. Some man-made fiber companies indicated that if the exemption is revoked in March 1982, they would be forced to use considerably less effective and possibly less safe substitutes in some processes and product lines.

The Association and several companies have indicated that EPA should not revoke the exemption before substitutes are proven available for all processes and applications. EPA was advised of this concern to its final rule in four letters and eight meetings during the months of February, March, and May 1981. While noting that substitutes existed for some applications and some companies, several man-made fiber companies provided evidence that substitutes would not be available for all applications and all companies by March 1982. The Association and companies indicated that developing and testing the various substitutes can take much longer than the time permitted under the March 1982 deadline. They indicated that companies make many different products from a variety of processes involving spinerettes of vastly different designs, sizes, and shapes which use different spinning cabinet designs and extrusion methods. Consequently, a release agent that works for one type of process or product line may not be suitable for another.

Although EPA has learned of a promising substitute developed by a company, several man-made fiber companies and the Association noted that the successful development of substitutes by a few companies does not assure the availability and acceptability of the substitute for all companies and process technologies. Some substitutes are proprietary and companies may not wish to make them generally available, thus preserving a potential competitive edge in product quality or productivity. Also, many man-made fiber producers purchase spinnerette release agents from outside suppliers and do not produce such products. The availability of acceptable CFC substitutes is beyond the control of these fiber producers.

The available information suggests that acceptable substitutes will not be universally available. The Man Made Fiber Producer Association has stated that substitutes for all applications and processes cannot be fully tested and implemented by March of 1982. The Association noted that completion of testing for a full line of processes and products can take up to two years and includes the analysis of process efficiency, product quality, flammability, corrosion properties, toxicity, and odor.

EPA believes that the information and concerns presented by industry are sufficient to warrant reconsideration of its final rule. Therefore, EPA is considering the following amendment to the final rule:

II. Alternatives to Final Rule

A. Reinstate the Essential Use Exemption for all Spinnerette Uses

The first alternative is to restore the essential use exemption for release agents for all spinnerette applications for an indefinite time period. The Association and companies that have met with EPA favor this alternative because they believe EPA inappropriately revoked the exemption and that it should remain in effect until acceptable substitutes are available to all companies for all processes and product lines. The advantages of this alternative are that it imposes no compliance burden on industry and permits the use of CFC propelled release agents for spinnerettes until acceptable substitutes are available. It would also allow companies more time to test and develop substitutes. The disadvantages

of this alternative are that it would permit companies to use CFC propelled release agents even though acceptable substitutes may be available. It may also retard the development of substitute products since there would be little incentive to commit resources for this purpose. However, several companies have informed EPA that they expect to continue their efforts to develop, evaluate, and adopt substitute propellants even if the exemption is reinstated. These companies have R & D programs already underway; they intend to continue funding these programs because of their potential for improved productivity, product quality and continuity of supply.

B. Issue Exemptions for Specific Processes or Applications

The second alternative is to issue exemptions for specific applications where substitutes do not work. EPA could issue an exemption by spinnerette diameter size, fiber process, or some other appropriate classification.

The advantage of this alternative is that it would require the use of substitute products in applications where acceptable substitutes exist but still permit the use of CFCs in processes and applications where substitutes are not suitable.

The industry has indicated that the alternative is not feasible because it is not possible to rationally choose suitable exemption categories. They have also indicated that it could require significant resources to develop and compile the appropriate information and therefore, this alternative would be excessively burdensome. Moreover, it would require that EPA possess considerable technical knowledge about the processes, applications, and products of the individual manufacturers. Before EPA could issue an exemption, the Agency would have to gather technical information from the companies and evaluate it. This approach would likely require commitment of considerable EPA and industry resources.

C. Require Company Certification of the Need for an Exemption

The third alternative is to allow a company to continue using the CFC propelled product for a particular process or application provided that an officer of the company certifies that it attempted to use available substitutes and that the substitutes were ineffective, unsafe, or otherwise unacceptable for their particular production process. Under this alternative, a company would be granted an automatic two year extension beyond the March 1, 1982 deadline. A company could renew the extension in subsequent years provided it notifies EPA before March 1 of subsequent even-numbered years that problems with the substitutes continue to exist. A company would have to document requests for initial and subsequent extensions with information on the substitutes it tested and the reasons the substitutes were unacceptable.

The advantage of this alternative is that it would require the use of substitute products in proceses and applications where a safe and effective substitute existed but still permit the use of CFCs in applications where the substitutes are inappropriate. This alternative would also provide incentive for companies to develop substitutes since they would have to document their efforts to the Agency. EPA would be able to monitor the companies progress and provide feedback on nonproprietary developments within the industry.

The disadvantage of the certification requirement is that it would not be meaningful unless EPA developed criteria to substantiate the need for an exemption. Companies would have to address these criteria when they submit their certification notice. Preparing such an exemption request, however, could place a burden on some companies. Monitoring the certification notices would require a continuing commitment of EPA resources.

III. EPA's Proposed Approach

After consideration of the three alternatives discussed above, EPA has decided that the preferred approach would be to adopt the first alternative, i.e., reinstating the essential use exemption for all spinnerette uses. EPA's reasons for proposing this alternative are that it does not create any burden on industry, provides equal treatment to all firms, and does not make any resource commitments for EPA.

The Agency believes that this is an appropriate approach to deal with an issue which will not be expected to result in any significant harm to human health and the environment. CFC release from this use will amount to an estimated 152,000 kilograms, or only about 0.04 percent of the total CFCs produced in the U.S. in 1980. This alternative will probably result in substitutes still being used where appropriate.

IV. Rulemaking Record

EPA has established a Public Record for this rulemaking (OPTS–66005C) that is available for inspection in Rm. E–107, Environmental Protection Agency, 401 M St., S.W., Washington, D.C., during the hours from 8:00 a.m. and 4:00 p.m., Monday through Friday, except for legal holidays. This record includes all information considered by the Agency in developing this proposal.

EPA will supplement the record with additional information as it is received. The record includes the following categories of information:

1. "Fully Halogenated Chlorofluoroalkanes," EPA. Published in the **Federal Register** of March 17, 1978 (43 FR 11318).

2. "Fully Halogenated Chlorofluorocarbons; Exemption for Spinnerette Release Agents," EPA. Published in the **Federal Register** of January 21, 1981 (46 FR 5981).

3. Non-Confidential Business Information letters received after the January 21, 1981 Final Rule.

4. Record of telephone conversations leading to this proposed rule.

V. Hearings

Requests for time to make an oral presentation must be made by telephone to the Industry Assistance Office, at the telephone number given above by the end of the 30-day written comment period. These requests must include: (1) A brief statement of the interest of the person or organization in the proceeding; (2) a brief outline of the points to be addressed; (3) an estimate of the time required; and (4) a nonbinding list of the persons to take part in the presentation.

The opportunity to submit oral comment will occur on October 9, 1981, at a location in EPA Headquarters, 401 M Street, S.W., Washington, D.C. For the exact location, call the Industry Assistance Office. The hearing will begin at 9:30 a.m. and is open to the public, but participation is limited to those requesting time and EPA personnel responsible for this rulemaking.

If no one has requested time to make an oral presentation by the end of the 30-day written comment period, there will be no hearing. Interested persons are advised to call the Industry Assistance Office to ascertain the status of the hearing.

VI. Regulatory Impacts

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it does not have an annual effect on the economy of $100 million or

more. Although EPA has not quantified the regulation's effect on the man-made fiber industry, the impact of this rule will be to decrease costs to the industry compared with the current rule which would increase costs by prohibiting the use of CFC's for spinnerette release agents.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Public Record for this rulemaking (OPTS-66005C).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) imposes a general requirement that an agency assess the impact of any regulation on small entities, including small businesses. However, section 605(b) of the Act provides exception from this requirement if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

The majority of the companies that produce man-made fibers are very large companies. Of the approximately seventy-five small companies that produce man-made fibers, only a small number produce the multi-filament fibers which use spinnerettes. Most of the small companies produce either sheet or mono-filament fibers which do not require the use of spinnerettes or CFCs as a mold release agent. The few small multi-filament fiber producers that use CFCs as a mold release agent would be favorably affected by the proposed rule to reinstate the exemption.

(Sec. 6, 90 Stat. 2020 (15 U.S.C. 2605))

Dated: August 13, 1981.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that 40 CFR 762.58(b) be revised to read as follows:

§ 762.58 Essential use exemption.

* * * * *

(b) release agent for molds used in the production of plastic and elastomeric materials.

* * * * *

[FR Doc. 81-24706 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6129]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Energy Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 755-5585, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Shannon Hills, Saline County	Otter Creek	Approximately 100 feet downstream of Shannon Hills Dr.	*314
			At the southern corporate limits	*319
		Shannon Hills tributary	Approximately 200 feet upstream of Clayton Drive	*315
			Just upstream of Joan Drive	*321

Maps available for inspection at Shannon Hills City Hall, 10401 High Road East, Mabelvale, Arkansas 72103.

Send comments to Mayor Max Foster or Ms. Carol Swaim, City Secretary, Shannon Hills City Hall, 10401 High Road East, Mablevale, Arkansas 72103.

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Eureka (city), Humboldt County	Martin Slough	Fairway Drive crossing the channel (downstream crossing).	*10
			Upstream side of Campton Road over the channel	*14
		Martin Slough tributary C	Approximately 550 feet upstream from mouth	*13
Maps available for inspection at Department of Community Development, 531 K Street, Eureka, California.				
Send comments to the Honorable Fred J. Moore, Jr., P.O. Box 1018, Eureka, California 95501.				
California	Galt (city), Sacramento County	Dry Creek	100 feet upstream from center of State Highway 99	*44
Maps available for inspection at Department of Engineering, 380 Civic Drive, Galt, California.				
Send comments to the Honorable Robert Dunnett, P.O. Box 97, Galt, California 95632.				
California	Suisun City (city), Solano County	Suisun slough	Intersection of Elwood and School Streets	*7
			Intersection of Alder and Cherry Streets	*7
			Dolphin Court	*7
		Laurel Creek	Intersection of Merganser Drive and Sunset Avenue	*12
			Intersection of Snow Drive and State Highway 12	#1
		McCoy Creek	North side of State Highway 12 crossing the channel	*8
		Pennsylvania Avenue Creek	Intersection of Southern Pacific and Pennsylvania Avenue.	#1
		Union Avenue Creek	Marina Center crossing the channel	*7
Maps available for inspection at Public Works Department, 701 Cedar Street, Suisun City, California.				
Send comments to the Honorable Bill Jones, 701 Cedar Street, Suisun City, California 94585.				
Connecticut	Redding, town, Fairfield County	Norwalk River	Downstream corporate limits	*303
			Upstream of State Route 465	*313
			First upstream corporate limits	*334
			Second upstream corporate limits	*371
			Third upstream corporate limits	*379
		Saugatuck River	Upstream of Newton Turnpike	*286
			Upstream of dam	*317
			Upstream of Station Road	*389
			Approximately 3,800' upstream of Simpaug Turnpike	*425
		Aspetuck River	Downstream corporate limits	*303
			Upstream of first crossing Valley Road	*333
			Upstream of dam	*358
			Upstream of second crossing Valley Road	*406
			Upstream of third crossing Valley Road	*452
			Upstream corporate limits	*477
		Hawley Pond Brook	Confluence with Saugatuck River	*405
			Upstream of Howes Lane	*420
			Downstream of Hawley Pond Dam	*430
Maps available for inspection at the Town Clerk's Office, Redding Town Hall, Redding, Connecticut.				
Send all comments to the Honorable Mary Guitar, First Selectwoman of Redding, Town Hall, Redding, Connecticut 06875.				
Florida	Town of Cross City, Dixie Counbase (100-year) flood elevationsty.	Ponding area 1	2,700 feet east of intersection of Seaboard Coast Line Railroad and McArthur Avenue.	*40
		Ponding area 2	1,400 feet east and 1,400 feet south of Seaboard Coast Line Railroad and McArthur Avenue intersection.	*39
		Ponding area 3	2,200 feet north and 600 feet east of State Road 351 (Cedar Street) and State Road 351A intersection.	*42
		Ponding area 4	1,000 feet north and 300 feet east of State Road 351 (Cedar Street) and State Road 351A intersection.	*43
		Ponding area 5	1,000 feet east along extension of State Road 351A and 50 feet south.	*41
		Ponding area 6	700 feet east and 200 feet south from State Road 351 and Lydia Street intersection.	*41
		Ponding area 7	400 feet south from Seaboard Coast Line Railroad and McArthur Avenue intersection.	*39
		Ponding area 8	150 feet east of intersection of Gaulden Avenue extended to the south at corporate limit.	*37
		Ponding area 9	200 feet south from Gaulden Avenue and Williams Street intersection.	*37
		Ponding area 10	250 feet south from State Road 351 and Jones Street intersection.	*37
		Ponding area 11	900 feet north from State Road 351 and Kenneth Street intersection.	*38
		Ponding area 12	100 feet north and 30 feet east of intersection of Seaboard Coast Line Railroad and westernmost coroporate limit.	*40
		Ponding area 13	Just south of intersection of Seaboard Coast Line Railroad and westernmost corporate limit.	*40
		Ponding area 14	250 feet west from Bishop Street and Camp Street intersection.	*38
		Ponding area 15	650 feet south and 50 feet east from Camp Street and Kressman Street intersection.	*37
		Ponding area 16	750 feed south and 75 feet west from Camp Street and Kressman Street intersection.	*35
		Ponding area 17	200 feet west from Camp Street and Estelle Boulevard intersection.	*36
		Ponding area 18	100 feet north and 300 feet west from State Road 351 (Camp Street) and Ann Lla Boulevard.	*37

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ponding area 19	150 feet south from intersection of Estelle Boulevard and westernmost corporate limit.	*36
	Maps available for inspection at Office of Clerk of Circuit Court, Dixie County Courthouse, Cross City, Florida 32628.			
	Send comments to Mayor Perry Hill or Mr. Stan Standrick, City Manager, City Hall, P.O. Box 417, Cross City, Florida 32628.			
Florida	Unincorporated areas of Glades County	Caloosahatchee River	Just upstream of U.S. Highway 27 bridge (State Highway 25).	*13
		Bee branch	Just upstream of State Highway 720	*42
		Pollywog Creek	Just upstream of State Highway 720	*45
		Turkey branch (shallow flooding areas).	Just downstream of State Highway 78	*22
		Long Hammock Creek (shallow flooding areas).	Approximately 0.5 mile north of State Highway 80	*15
		Stream J (shallow flooding areas)	Approximately 200 feet north of State Highway 600	*18
		Stream K (shallow flooding areas)	Approximately 200 feet north of State Highway 80	*19
		Okeechobee Rim Canal interior drainage areas.	Just upstream of Indian Prairie Canal	*17
		Lake Okeechobee	Entire shoreline	*21
	Maps available for inspection at Glades County Courthouse, U.S. 27th and Sixth Street, Moore Haven, Florida 33471.			
	Send comments to Mr. Vance Whidden, Chairman of Glades County Commission or Mr. Norman Waldron, Planning Director, Glades County Courthouse, P.O. Box 10, Moore Haven, Florida 33471.			
Florida	Unincorporated areas of Hendry County	Caloosahatchee River	Just downstream of State Route 29	*9
		Jacks branch	Just downstream of State Route 78	*10
		Stream A	Unnamed Road at 1750 feet above mouth	*12
		Stream B	Unnamed Road at 600 feet above mouth	*15
		Stream C	Just upstream of Niles Street	*20
		Stream D	Just upstream of State Route 78	*18
			Just upstream of North River Road	*20
		Stream E	Just downstream of State Route 78	*10
		Bee branch	Just downstream of State Route 78	*14
		Pollywog Creek	Just downstream of State Route 78	*14
		La Belle "A"	Just upstream of Devils Garden Avenue	*19
			Just downstream of State Route 29	*20
		Canal 139	Approximately 700 feet north of confluence with South Alico Canal.	*20
		Stream "F"	Just downstream of State Route 80	*19
		Stream "G"	Just downstream of State Route 80	*21
		Long Hammock Creek	Approximately 1600 feet upstream of State Route 80	*25
		Stream I	Approximately 8000 feet upstream from State Route 80.	*22
		Stream J	Approximately 1000 feet upstream of State Route 80	*19
		Stream K	Approximately 10,000 feet upstream of State Route 80	*22
		Lake Okeechobee	Entire shoreline	*21
	Maps available for inspection at County's Engineers Office and Building and Zoning Department, Hendry County Courthouse, La Belle, Florida 33935.			
	Send comments to Mr. C. E. Hall, Chairman of Hendry County Commission or Mr. Lionel Beatty, County Administrator, Hendry County Courthouse, P.O. Box 38, La Belle, Florida 33935.			
Florida	City of Perry, Taylor County	Spring Creek	Just downstream of Springfield Street	*39
			Just upstream of Washington Street	*43
			Just upstream of Clark Street	*45
		Pimple Creek	Just upstream of Main Street	*39
			Just upstream of Jefferson Street	*43
		Pimple Creek east branch	Just upstream of Helen Street	*49
		Shallow flooding (ponding)	Approximately 150 feet north of the intersection of First Street and South Avenue.	*38
			Approximately 600 feet south of the intersection of Young Street and Stephen Street.	*42
			At the intersection of Bacon Street and Alvarez Street	*43
			At the intersection of Cross Road and Oak Street	*44
			Approximately 400 feet south of the intersection of Ash Street and Johnson Stripling Road.	*45
			At the intersection of Oquin Road and Crit Jones Drive	*46
	Maps available for inspection at City Hall, 224 South Jefferson, Perry, Florida 32347.			
	Send comments to Mayor T. C. Williams or Mr. Clarence Giddens, Jr., City Clerk, City Hall, P.O. Drawer 109, Perry, Florida 32347.			
Florida	City of Wewahitchka, Gulf County	Apalachicola River	Confluence of Taylor Branch with Chipola River	*28
			Intersection of Bass Street and State Road 22	*30
		Taylor Branch	Just downstream of State Road 71	*29
			Just upstream of State Road 71	*33
			Just downstream of Catalpa Avenue	*35
	Maps available for inspection at City Clerk's Office, City Hall, Osceola Avenue and Second Street, Wewahitchka, Florida 32465.			
	Send comments to Mayor Faye Cox or Mr. Terry Linton, Mayor Pro-Tem, City Hall, P.O. Box 966, Wewahitchka, Florida 32465.			
Georgia	City of Flemington, Liberty County	Peacock Canal	Just downstream of U.S. 82	*21
			Just upstream of Dirt Road	*26
		Mallard Canal	Just upstream of Dirt Road	*20
		Alligator Canal	Just upstream of Dirt Road	*20
			Just upstream of Old Hines Road	*21
		Goshen Canal	Just upstream of confluence of Alligator and Goshen Canal.	*19
	Maps available for inspection at the Office of the Mayor, 111 Oglethorpe Highway, Flemington, Georgia 31313.			
	Send comments to Mayor O. C. Martin, Route 1, Box 23, Hinesville, Georgia 31313.			

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Carbon Cliff, Rock Island County	Rock River	Just downstream of State Route 84	*575
			Just upstream of State Route 84	*576
			About 1.4 miles upstream of Chicago, Rock Island and Pacific Railroad.	*577
	Maps available for inspection at the Clerk's Office, Village Hall, 106 First Avenue, Carbon Cliff, Illinois.			
	Send comments to Honorable Kenneth Williams, Village President, Village of Carbon Cliff, Village Hall, 106 First Avenue, Carbon Cliff, Illinois 61239			
Illinois	(C) Fulton, Whiteside County	Mississippi River	About 0.56 mile downstream of State Route 136	*591
			About 1.44 miles upstream of State Road 136	*593
		Shallow Flooding	About 1100 feet south of intersection of 6th Street and 22nd Avenue.	*581
			About 500 feet southeast of intersection of State Route 136 and levee.	*584
			Northeastern corporate limits	*585
	Maps available for inspection at the City Hall, 406 13th Avenue, Fulton, Illinois.			
	Send comments to Honorable Peter Maliszewski, Mayor, City of Fulton, City Hall, 406 13th Avenue, Fulton, Illinois 61252.			
Illinois	(V) Millington, Kendall and La Salle Counties	Fox River	About 3150 feet downstream of Bridge Street	*555
			About 1300 feet upstream of Bridge Street	*557
		Clear Creek	Mouth at Fox River	*557
			About 1450 feet upstream of Burlington Northern Railroad.	*562
	Maps available for inspection at the Clerk's Office, Millington, Illinois.			
	Send comments to Honorable Elmer Foster, Village President, Village of Millington, Village Hall, Millington, Illinois 60537.			
Illinois	(V) Oswego, Kendall County	Fox River	About 2800 feet downstream of Washington Street	*598
			About 2700 feet upstream of Washington Street	*604
		Waubansee Creek	Mouth at Fox River	*602
			Just upstream of dam near Madison Street	*621
			About 180 feet upstream of U.S. Route 34	*638
	Maps available for inspection at the Clerk's Office, Village Hall, 113 Main Street, Oswego, Illinois.			
	Send comments to Honorable Milton Penn, Village President, Village of Oswego, Village Hall, 113 Main Street, Oswego, Illinois 60543.			
Illinois	(C) Yorkville, Kendall County	Fox River	About 1.2 miles downstream of Bridge Street	*575
			Just upstream of Glen D. Palmer Dam	*579
			About 1500 feet upstream of Glen D. Palmer Dam	*580
		Blackberry Creek	At confluence with Fox River	*576
			About 600 feet upstream of River Road	*586
			Just downstream of U.S. Route 34	*606
			About 4300 feet upstream of U.S. Route 34	*615
	Maps available for inspection at the Clerk's Office, Watertower, 610 Tower Lane, Yorkville, Illinois 60560.			
	Send comments to Honorable Leroy E. Thanepohn, Mayor, City of Yorkville, Watertower, 610 Tower Lane, Yorkville, Illinois.			
Indiana	(C) Boonville, Warrick County	Cypress Creek	About 650 feet downstream of Southern Railway	*392
			About 0.52 mile upstream of State Route 62	*396
	Maps available for inspection at the City Hall, 113 South Second Street, Boonville, Indiana.			
	Send comments to Honorable James T. Pryor, Mayor, City of Boonville, City Hall, 113 South Second Street, Boonville, Indiana 47601.			
Indiana	(C) Jasper, DuBois County	Patoka River	About 0.5 mile downstream of U.S. Route 231	*452
			About 0.25 mile downstream of State Route 162	*459
			About 3.45 miles upstream of 15th Street	*466
		Straight River	Just upstream of confluence with Patoka River	*454
			About 0.39 mile upstream of Meridian Road	*455
		Jahn Creek	Just upstream of confluence with Straight River	*455
			Just downstream of Hope Street	*465
			Just upstream of State Route 162	*469
			Just downstream of Meridian Road (about 0.34 mile upstream of State Route 162).	*469
	Maps available for inspection at the City Hall, 606 Main Street, Jasper, Indiana.			
	Send comments to Honorable Jerome Alles, Mayor, City of Jasper, City Hall, 606 Main Street, Jasper, Indiana 47546.			
Indiana	(T) Newburgh, Warrick County	Ohio River	At downstream corporate limits	*382
			At upstream corporate limits	*383
	Maps available for inspection at the Town Hall, 200 State Street, Newburgh, Indiana.			
	Send comments to Honorable Ivan Horn, Town Board President, Town of Newburgh, Town Hall, P.O. Box 6, 200 State Street, Newburgh, Indiana 47630.			
Indiana	(Uninc.), Warrick County	Ohio River	At the downstream county boundary	*381
			At the upstream county boundary	*385
		Cypress Creek	Just upstream of Southern Railway (about 1.1 miles north of South 150 Road).	*391
			Just upstream of North 250 Road	*396
		Pigon Creek	About 1.6 miles downstream of West 1025 Road	*386
			Just downstream of North 250 Road	*390
		Weinsheimer Ditch	At mouth	*388
			Just downstream of West 900 Road	*388
		Little Pigeon Creek	At mouth	*384
			About 7.5 miles upstream of State Highway 161	*392
	Maps available for inspection at the County Courthouse, Warrick County Commission Office, Boonville, Indiana.			
	Send comments to Honorable Keith Shelton, President of the Warrick County Commissioners, Warrick County, County Courthouse, Warrick County Commission Office, Boonville, Indiana 47601.			

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C) Crescent, Pottawattamie County	Crescent Creek	About 400 feet downstream of Unnamed Street	*1005
			About 350 feet upstream of State Highway 183	*1015
			About 0.45 mile upstream of State Highway 183	*1024
		Shallow Flooding (Overflow From Pigeon Creek).	Within corporate limits	#3
	Maps available for inspection at the City Clerk's Offices, City Hall, Crescent, Iowa.			
	Send comments to Honorable Mark Hunter, Mayor, City of Crescent, City Hall, Crescent, Iowa 51526.			
Iowa	(C) Glenwood, Mills County	Keg Creek	Just upstream of U.S. Highway 34 (downstream of Hazel Street).	*983
			About 2000 feet upstream of U.S. Highway 34 (upstream of Green Street).	*992
		Fallons Creek	Just downstream of U.S. Highway 34	*991
			About 2300 feet upstream of U.S. Highway 34	*998
	Maps available for inspection at the City Hall, 107 South Locus, Glenwood, Iowa.			
	Send comments to Honorable Dale L. Harper, Mayor, City of Glenwood, City Hall, 107 South Locus, Glenwood, Iowa 61534.			
Iowa	(C) Underwood, Pottawattamie County	Mosquito Creek	About 1.0 mile downstream of Third Street	*1057
			About 3000 feet upstream of Third Street	*1065
		Mosquito Creek Bypass	At confluence with Mosquito Creek	*1064
			At upstream corporate limits	*1066
	Maps available for inspection at the City Hall, P.O. Box 40, Underwood, Iowa.			
	Send comments to Honorable Robert Dose, Mayor, City of Underwood, City Hall, P.O. Box 40, Underwood, Iowa 51576.			
Kansas	(Uninc.), Shawnee County	Kansas River	Approximately 0.2 mile downstream of the east county boundary.	*861
			Approximately 2.9 miles upstream of the east county boundary.	*871
			Just downstream of the east corporate limit of the City of Topeka.	*876
			Approximately 1.2 miles downstream of the west corporate limit of the City of Topeka.	*892
			Approximately 4.6 miles upstream of the west corporate limit of the City of Topeka.	*906
			Just downstream of the west county boundary	*931
		Wakarusa River	Just upstream of the Kansas Turnpike	*1016
			Approximately 9400 feet upstream of the Kansas Turnpike.	*1020
		North Branch Wakarusa River	At the mouth	*1017
			Approximately 100 feet upstream of 89th Street	*1020
			Approximately 9300 feet upstream of 89th Street	*1043
		Halfday Creek	Approximately 2250 feet downstream of Northwest 36th Street.	*867
			Approximately 500 feet upstream of the downstream Chicago, Rock Island and Pacific Railroad.	*904
			Approximately 250 feet downstream of the upstream Chicago, Rock Island and Pacific Railroad.	*931
			Approximately 100 feet upstream of Northwest 62nd Street.	*942
			Just upstream of Northwest 78th Street	*979
			Approximately 2800 feet upstream of Northwest 86th Street.	*1019
			Just downstream of the north county boundary	*1046
		Indian Creek	At the corporate limits of the City of Topeka	*882
			Approximately 500 feet downstream of Northeast 43rd Street.	*910
			Just upstream of Northeast 43rd Street	*915
			Approximately 500 feet upstream of Northeast 58th Street.	*953
			Approximately 500 feet upstream of Northeast 62nd Street.	*964
			Approximately 200 feet upstream of Topeka Avenue	*982
			Approximately 3400 feet upstream of Northeast 74th Street.	*1020
			Approximately 2600 feet upstream of Northeast 82nd Street.	*1071
		Shunganunga Creek	At mouth	*874
			Just downstream of the corporate limits of the City of Topeka.	*877
			Approximately 4700 feet downstream of Wanamaker Road.	*946
			Just downstream of Wanamaker Road	*954
		Stinson Creek	At mouth	*874
			Approximately 150 feet downstream of U.S. Route 40	*874
			Approximately 100 feet upstream of U.S. Route 40	*880
			About 150 feet downstream of Interstate 70	*908
			Approximately 350 feet upstream of Interstate 70	*920
			Approximately 200 feet upstream of the upstream crossing of Tecumseh Road.	*960
		Tecumseh Creek	At the mouth	*872
			Approximately 200 feet downstream of Laurel Road	*873

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 100 feet upstream of Laurel Road	*879
			Approximately 300 feet downstream of Interstate 70	*899
			Approximately 250 feet upstream of Interstate 70	*912
			Approximately 150 feet downstream of Southeast 29th Street.	*928
			Approximately 200 feet upstream of Southeast 29th Street.	*939
			Approximately 4500 feet upstream of Southeast 29th Street.	*944
			Approximately 200 feet upstream of Southeast 37th Street.	*973
			Approximately 6500 feet upstream of Southeast 37th Street.	*988
		Cross Creek	At the mouth	*918
			Approximately 350 feet upstream of the upstream corporate limit of the City of Rossville.	*930

Maps available for inspection at the Zoning Commission, County Courthouse, 7th and Quincy, Topeka, Kansas.

Send comments to Honorable Velma Paris, Chairman of the Board of County Commissioners, Shawnee County, County Courthouse, 7th and Quincy, Topeka, Kansas 66612.

Massachusetts	Templeton, Town, Worcester County	Otter River	Approximately 2,160' upstream of Maple Street	*856
			Approximately 8,000' upstream of Maple Street	*865
			Upstream side of Hamlet Mill Road	*887
			Approximately 1,600' upstream of Otter River Dam	*914
			Upstream Corporate Limits	*919

Maps available for inspection at the Planning Board, Templeton Town Hall, Central Street, Baldwinville, Massachusetts.

Send comments to the Honorable Dana G. Putnam, Chairman of the Templeton Board of Selectmen, Town Hall, Central Street, Baldwinville, Massachusetts 01436.

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

Issued: August 7, 1981.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-24526 Filed 8-24-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Correction of Proposed Revision of Special Rule for African Elephant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service corrects the description of its proposed revision of the special rule for the African elephant in order to make it clear that it is seeking information concerning the need to extend the licensing provisions of 50 CFR Part 14 to importers or exporters of raw ivory who presently qualify for the $25,000 per year exclusion from such provisions. The Service also corrects two typographical errors.

DATE: Comment from the public on this correction and any other part of the proposal must be received by September 9, 1981, to be assured consideration.

ADDRESSES: Submit written comments to Director (WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials received in response to this proposal will be available for public inspection during normal working hours at the Federal Wildlife Permit Office, Room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–1937.

SUPPLEMENTARY INFORMATION: On July 17, 1981, the Service published a proposed revision of the special rule for the African elephant (*Loxodonta africana*) which would require that raw ivory being imported into the United States be marked, and which would eliminate current prohibitions against certain domestic activities (46 FR 37059).

One of the headings in the preamble to the proposed rule is entitled "Description of the Proposed Rule" (46 FR 37061). The fifth paragraph under that title reads as follows:

> Persons who are in the business of importing or exporting raw ivory must also be licensed by the Service. The liensing required by 50 CFR Part 14 will suffice for those purposes, and anyone having such a license will not have to obtain an extra license. Information presently available to the Service indicates that there will be few, if any, persons in this category. The Service requests specific information on this point. Depending on information received, the Service will consider requiring such persons to also obtain licenses.

A reasonable interpretation of the third sentence in this paragraph could be that the Service has information indicating that most importers and exporters of raw ivory do not have a license as required by Part 14. This is not the intended meaning. That sentence was referring to exporters and importers who might be qualified for the $25,000 exclusion to the licensing requirement. In order to clarify this point, the paragraph quoted above is hereby removed and the following paragraph substituted therefor:

> Persons who are in the business of importing or exporting raw ivory must also be licensed by the Service. The licensing required by 50 CFR Part 14 will, for the most part, suffice for this purpose, and anyone having such a license will not have to obtain an extra license. Information available to the Service indicates that few, if any, exporters

or importers of raw African elephant ivory qualify for the $25,000 exclusion to the licensing requirement. The Service requests specific information on this point. Depending on the information received, the Service will determine whether or not such persons must also obtain licenses.

Correction of Typographical Errors

1. Page 37059, in the first sentence of the summary, immediately following the "United States", change the word "by" to "be".

2. Page 37062, first paragraph, third line, change the word "from" to "form".

Dated: August 18, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-24719 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 164
Tuesday, August 25, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1981 Rice Program; Determination Regarding 1981-Crop Rice Acreage Allotments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1981-crop rice acreage allotments.

SUMMARY: The purpose of this notice is to announce with respect to the 1981-crop of rice the apportionment of the national rice acreage allotment to farms and to producers in producer administrative areas. The rice allotments apportioned to farms or to producers will be used to determine loan eligibility and to compute deficiency payments if such payments are determined to be necessary. This program determination is required to be made by the Secretary in accordance with provisions of Section 352 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1352).

EFFECTIVE DATE: August 24, 1981.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Agricultural Program Specialist; USDA/ASCS, Production Adjustment Division, P.O. Box 2415, Washington, D.C. 20013, (202) 447-8480. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option will be available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures required by Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title: Rice Production Stabilization; Number 10.065, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

The notice of determination announces the allocation of the 1981 national rice acreage allotment and State reserve acreages as provided for in Section 352 of the Agricultural Adjustment Act of 1938, as amended (referred to as the "Act").

Section 352 of the Act requires that (1) the Secretary establish for each of the 1976 through 1981 crops of rice a national acreage allotment in the amount of 1,800,000 acres; and, (2) the Secretary shall apportion the 1,800,000 acres to farms and producers on the basis of allotments established for the 1975 crop of rice. State ASC committees may reserve up to one percent of the State allotment for (1) apportionment to new rice farms and new rice producers based on the suitability of the land, the extent the farm operator is dependent on farming for his income, the production of rice on other farms owned, operated or controlled by such person, and other factors which the State committee determines to be important; (2) making adjustments to correct inequities or to prevent hardship; and, (3) making corrections in farm or producer allotments.

Accordingly, the Secretary has made the following determinations for the 1981 crop of rice:

Determinations

1. *National Acreage Allotment for 1981-Crop Rice.* It is hereby determined and proclaimed that a national acreage allotment of 1,800,000 acres shall be in effect for the 1981 crop of rice as required by Section 352 of the Act.

2. *Apportionment of the 1981 National Acreage Allotment of Rice to Farms and Producers.* The national acreage allotment of 1,800,000 acres for the 1981 crop of rice is apportioned to farms and producers on the basis of the rice allotments established for the 1975 crop of rice, with any adjustments made pursuant to Section 352(c) of the Act. For 1981-crop rice, the allotment so apportioned within each of the rice producing States is as follows:

State	Acres
Arkansas	435,397.4
California	326,796.7
Florida	958.9
Louisiana:	
Farm Administrative Area	499,426.0
Producer Administrative Area	18,187.3
State Total	517,613.3
Mississippi	50,819.9
Missouri	4,967.8
North Carolina	41.0
Oklahoma	163.2
South Carolina	2,637.5
Tennessee	288.3
Texas	460,314.0
U.S. Total	1,800,000.0

3. *State Reserve Acreages.* For 1981-crop rice, the State reserve acreages, as established by the State committees in accordance with Section 352 of the Act, are determined and proclaimed as follows:

State	Reserve
Arkansas	0
California	0
Florida	9.5
Louisiana	0
Farm Administrative Area	0
Producer Administrative Area	0
State Total	0
Mississippi	0
Missouri	0
North Carolina	0
Oklahoma	0
South Carolina	0
Tennessee	0
Texas	50.0

Signed at Washington, D.C. on August 17, 1981.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 81-24677 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-05-M

Determinations Regarding 1981-Crop Rice Set-Aside Program, Land Diversion Payment Program, Established "Target" Price and Loan and Purchase Rate, and Other Program Provisions

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1981-crop rice set-aside, land diversion payment program, established "target" price and loan and purchase rate, and other program provisions.

SUMMARY: The purpose of this notice is to announce with respect to the 1981-crop of rice that (1) there will be no set-aside program and no voluntary land diversion payment program; (2) the established "target" price will be $10.68 per hundredweight; (3) the loan and purchase rate will be $8.01 per hundredweight; and (4) that no compliance with Normal Crop Acreage (NCA) will be required for rice program benefits. The program determinations are required to be made by the Secretary in accordance with provisions of Section 101(h) of the Agricultural Act of 1949.

EFFECTIVE DATE: August 24, 1981.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Agricultural Program Specialist, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–8480. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option will be available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures required by Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies are: Title: Rice Production Stabilization; Number 10.065, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

A notice that the Secretary was preparing to make determinations with respect to a set-aside program, a land diversion payment program, established "target" price and loan and purchase rates for 1981-crop rice was published in the **Federal Register** on November 4, 1980 (45 FR 18410), in accordance with 5 U.S.C. 553 and provided for a 60 day comment period. Twenty comments were received on the notice of proposed determinations. These responses were received from 13 farmers, 2 farmer-owned cooperatives, 2 national organizations, 1 farm organization, 1 production company, and 1 university. There was unanimous opposition to a set-aside by all twenty respondents. The Normal Crop Acreage compliance requirement was unanimously opposed by the 17 respondents addressing that option.

Generally, respondents thought that supply and demand of rice are reasonably well balanced, that stock levels are not excessive, and that an acreage restriction will not be in the best interest of the rice industry.

Eleven respondents commented about the established "target" price and nine on the loan and purchase rate. Most suggested that the established "target" price for rice should reflect actual production cost increases in 1980. Two respondents suggested that the established "target" price is unnecessary. There was general agreement by the cooperatives and associations that the methods for calculating loan rates are appropriate and that the resulting loan and purchase levels will not restrict exports. A few individual producers thought loan and purchase rate levels were too low.

There were three comments regarding loan rate differentials. One respondent suggested that high quality rice production should be encouraged by raising the premium for U.S. grade No. 1 to 15 cents per pound from the present 8 cents per pound rate. The other two respondents favor continuing the current loan differentials. All comments received were considered by the Secretary.

Accordingly, the Secretary has made the following program determinations for the 1981 crop of rice:

Determinations

1. *No Set-Aside for 1981-Crop Rice.* Section 101(h)(5) of the Agricultural Act of 1949, as amended, provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of such set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. In accordance with these considerations, it is hereby determined that there will be no set-aside requirement for the 1981-crop rice program. Without a set-aside, it is expected that rice acreage in 1981 will be approximately 3.46 million acres. Production will likely be 153.4 million hundredweights. Beginning stocks on August 1, 1981, are estimated at 19.3 million hundredweights resulting in total supplies of 172.7 million hundredweights. This total supply level exceeds the 1980 total supply of 170.8 million hundredweights by less than 2.0 million hundredweights. Domestic and export use are estimated at 147.7 million hundredweights and would result in carryover stocks of 21.5 million hundredweights. This carryover level is 2.2 million hundredweights above the 1980 carryover but is not considered excessive.

A set-aside would reduce supplies at a time of reasonably strong demand and result in unnecessary price increases. Given the current year outlook and expectation of continued strong export demand for rice, it has been determined that no set-aside is needed for the 1981 crop of rice.

2. *No Land Diversion Payment Program.* Section 101(h)(6) of the Agricultural Act of 1949, as amended, provides that the Secretary may make land diversion payments to cooperators, whether or not a set-aside is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. In accordance with this provision, it is hereby determined that there will be no land diversion payments under the 1981-crop rice program in view of the fact that with the present supply-demand outlook for the 1981-crop rice, such a land diversion program is not needed to assist in adjusting the total national acreage of rice to desirable levels.

3. *No Compliance With Normal Crop Acreage (NCA) for Rice Program Benefits.* Section 1001 of the Food and Agriculture Act of 1977, as amended, provides authority for the Secretary to

require compliance with the established farm NCA as a condition of eligibility for crop loans, purchases, and program payments. This authority was suspended for the 1981-crop rice program by Section 620 of the Agriculture, Rural Development, and Related Agencies Appropriations, Fiscal Year 1981 (Pub. L. 96-528, 94 Stat. 3095, 3118, approved December 15, 1980). Therefore, compliance with the farm NCA will not be required by allotment holders as a condition of eligibility for loans, purchases and payments under the 1981 rice program.

4. *1981 Established "Target" Price for Rice.* Section 101(h)(1) of the Agricultural Act of 1949, as amended, provides that the established "target" price used to calculate deficiency payments for 1981-crop rice shall be the 1980 target price ($9.49 per hundredweight) adjusted to reflect any change in (1) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (2) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of the variable, machinery and overhead costs of rice production. For the 1981-crop rice, the crop years used to calculate the adjustment are 1978, 1979, and 1980, respectively. The costs for these years, as estimated by Economics and Statistics Service (ESS), are $5.736 per hundredweight, $6.435 per hundredweight and $8.110 per hundredweight, respectively. The average adjusted cost for 1979 and 1980 is $7.273 per hundredweight or ($6.435+$8.110)÷2 and the average adjusted cost for 1978 and 1979 is $6.086 or ($5.736+$6.435)÷2. The difference of $1.187 added to the 1980 crop established "target" price of $9.49 per hundredweight results in the established "target" price of $10.68 per hundredweight for 1981-crop rice. It is hereby determined in accordance with this adjustment that the 1981 established "target" price for rice shall be $10.68 per hundredweight.

5. *1981 Loan and Purchase Rate.* The rice loan and purchase rate is calculated in accordance with Section 101(h)(2) of the Agricultural Act of 1949, as amended, which provides that the 1981 loan and purchase rate shall bear the same ratio to the 1980 loan and purchase rate as the 1981 established "target" price bears to the 1980 established "target" price. The established "target" price ratio is 1.1254 ($10.68÷$9.49). This ratio applied to the 1980 crop loan and purchase rate of $7.12 per hundredweight equates to $8.01 per hundredweight. It is hereby determined in accordance with the provision that the 1981 loan and purchase rate for rice shall be $8.01 per hundredweight.

Signed at Washington, D.C. on August 17, 1981.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 81-24678 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

1981 Flue-Cured Tobacco, Price Support Rates; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of 1981 Flue-cured tobacco price support rates; correction.

SUMMARY: This document corrects a notice of determination of the price support rates for 1981-Crop Flue-cured Tobacco that appeared in FR Doc. 81-19163 at page 33351 in the **Federal Register** on Monday, June 29, 1981. (46 FR 33351). This action is necessary to correct errors in grades which appeared in the table of support rates.

EFFECTIVE DATE: August 25, 1981.

ADDRESS: Director, Price Support and Loan Division, ASCS, USDA, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, ASCS, (202) 447-6733.

Correction

The following corrections are made in FR Doc. 46-124 appearing on page 33351 in the issue of June 29, 1981 (46 FR 33351):

On Page 33351 at the middle of column three entitled "Grade," B3KV is corrected to read B4KV, B4KV is corrected to read B5KV, and B5KV is corrected to read B6KV.

Signed at Washington, D.C. on August 18, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-24681 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-05-M

Food and Nutrition Service

Child Care Food Program; National Average Payment Rates and Day Care Home Food Service Payment Rates for the Period September 1, 1981 to June 30, 1982, With a Separate Period of January 1, 1982 to June 30, 1982 for Supplements for Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the national average payments for lunches, suppers, breakfasts and supplements served to children in centers, and the food service payment rates for meals served in family day care homes, as mandated by Pub. L. 97-35.

EFFECTIVE DATE: The rates for breakfasts, lunches, and suppers will be in effect from September 1, 1981 through June 30, 1982 at which time these rates will be adjusted to reflect changes in the Consumer Price Index. The rate for supplements in centers will be in effect from January 1, 1982 through June 30, 1982 at which time that rate will also be adjusted to reflect changes in the Consumer Price Index.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6509.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. This notice has also been reviewed with regard to the requirements of Public Law 96-354. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this notice does not have a significant economic impact on a substantial number of small entities.

Because the Omnibus Reconciliation Act of 1981 requires that these payment rates become effective September 1, 1981, it is impracticable for the Department to follow the procedures set forth in Executive Order 12291. As provided by section 8(a) of that Order the Director of OMB has been notified of this circumstance.

Background:

Pursuant to Pub. L. 97–35 of August 13, 1981 (amending Section 17 of the National School Lunch Act) and §§ 226.4, 226.13, and 226.14 of the regulations governing the Child Care Food Program (7 CFR Part 226), the Secretary is announcing new reimbursement rates for all meals served in the Child Care Food Program. These new reimbursement rates are specified in Pub. L. 97–35 which established new national average payments for breakfasts, lunches, suppers, and supplements served in child care centers. Public Law 97–35 also mandated a ten percent reduction in the food service reimbursement rates for meals served in Family Day Care Homes in effect as of the date of the legislation. The adjustments to these rates are nondiscretionary and are not, therefore, subject to public comment. The rates contained in this notice shall be adjusted annually beginning July 1, 1982, as specified by the legislation. This notice replaces current published rates for the period of July 1, 1981 through December 31, 1981 and July 1, 1981 through June 30, 1982. Congress has also mandated in Pub. L. 97–35 a ten percent reduction in the reimbursement for administrative payments for sponsors of family day care homes. The Department is currently considering various methods of applying this provision and expects to issue proposed rulemaking to adjust these rates in the near future.

Public Law 97–35 also limits the number of meal services for which reimbursement may be provided. Institutions will not be reimbursed for more than two meals and one supplement daily for each eligible child served. This provision becomes effective September 1, 1981. The Department is currently developing final rulemaking to amend Child Care Food Program regulations (7 CFR Part 226) to reflect this change.

In All States except Alaska and Hawaii, the new rates are as follows:

All States Except Alaska and Hawaii

Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid	$8.25
Free	57.00
Reduced	28.50
Lunches and suppers:	
Paid	[1] 10.50
Free	[1] 109.25
Reduced	[1] 69.25
Supplements:	
Paid	2.75
Free	30.00
Reduced	15.00
Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	47.75
Lunches and suppers	93.50
Supplements	26.00

All States Except Alaska and Hawaii—Continued

Alaska	
Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid	13.25
Free	92.25
Reduced	62.25
Lunches and suppers:	
Paid	[1] 17.00
Free	[1] 177.00
Reduced	[1] 137.00
Supplements:	
Paid	4.50
Free	48.50
Reduced	24.25
Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	77.25
Lunches and suppers	151.75
Supplements	45.25
Hawaii	
Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid	9.75
Free	66.75
Reduced	36.75
Lunches and suppers:	
Paid	[1] 12.25
Free	[1] 127.75
Reduced	[1] 87.75
Supplements:	
Paid	3.25
Free	35.00
Reduced	17.50
Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	55.75
Lunches and suppers	109.50
Supplements	32.75

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the Program. Notices announcing the value of commodities and cash-in-lieu commodities will be published separately in the FEDERAL REGISTER.

[2] These rates do not include the value of commodities (or cash-in-lieu of commodities) assistance for each lunch or supper served to children under the Program. Notices announcing the value of commodities and cash-in-lieu of commodities will be published separately in the FEDERAL REGISTER.

The total amount of payments available to each State agency for distribution to institutions participating in the Program is based on the rates contained in this notice.

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226) published on January 22, 1980 at 45 FR 4960.

(Catalog of Federal Domestic Assistance Progam No. 10.558)

(Pub. L. 97–35)

Dated: August 19, 1981.

G. William Hoagland,

Administrator, Food and Nutrition Service.

[FR Doc. 81–24659 Filed 8–24–81; 8:45 am]

BILLING CODE 3410–30–M

Rural Electrification Administration

Sitka Telephone Co., Sitka, Alaska; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register**, September 16, 1974, (Vol. 39 No. 180, pages 33228–33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $11,500,000 to Sitka Telephone Company of Sitka, Alaska. The loan funds will be used to refinance outstanding indebtedness, and to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. A. M. Gleason, President, Sitka Telephone Company, 1221 S. W. Yamhill, Portland, Oregon 97205.

To assure consideration, proposals must be submitted September 24, 1981 to Mr. Gleason. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Sitka Telephone Company and REA deem appropriate. Prospective lenders are advised that it is anticipated that financing for this project will be available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 in Rural Telephone Loans and Loan Guarantees.

Dated at Washington, D.C., this 19th day of August, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81–24682 Filed 8–24–81; 8:45 am]

BILLING CODE 3410–15–M

Soyland Power Cooperative, Inc., Decatur, Illinois; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and

procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $3,330,000 to Soyland Power Cooperative, Inc., of Decatur, Illinois, for financing early costs in connection with the possible construction of a 200 MW compressed air energy storage facility.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances from Mr. Royal B. Newman, Manager, Soyland Power Cooperative, Inc., P.O. Box A1606, Dacatur, Illinois 62525.

In order to be considered, proposals must be submitted September 24, 1981, to Mr. Newman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Soyland Power Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

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

Dated at Washington, D.C., this 19th day of August, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-24683 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-15-M

United Power Association; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact in connection with the proposed financing assistance to United Power Association (UPA) of Elk River, Minnesota.

The request for additional financing assistance is for the supplemental 60 MW boiler project at the Stanton Generating Station in Mercer County, North Dakota, because of the increased costs from construction delays, and higher than anticipated interest charges and inflation rate.

In October 1978, REA issued a Final Environmental Impact Statement (FEIS) on the Stanton supplemental boiler. UPA has prepared a Borrower's Environmental Report (BER) on changes from the FEIS and REA prepared an Environmental Assessment (EA) on the changes.

The changes included modifications in the boiler design to comply with more stringent air quality standards, minor ash transport system changes and the decision to install a dry scrubber for sulphur dioxide removal.

After an independent evaluation of the BER, the EA and information from other sources, REA concluded that the modifications will not have a significant impact on the quality of the human environment and prepared a "Finding of No Significant Impact."

The "Finding of No Significant Impact," REA's EA and UPA's BER may be reviewed in the office of the Director, Power Supply Division, Rural Electrification Administration, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1390 or at the office of United Power Association, Elk River, Minnesota 55330.

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

Dated at Washington, D.C., this 19th day of August, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-24684 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-15-M

Mid-Carolina Telephone Co., Matthews, North Carolina; Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register**, September 16, 1974, (Vol. 39 No. 180, pages 33228–33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $22,658,000 to Mid-Carolina Telephone Company of Matthews, North Carolina. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Archie A. Thomas, President, Mid-Carolina Telephone Company, P.O. Box 625, Matthews, North Carolina 28105.

To assure consideration, proposal must be submitted on or before September 24, 1981, to Mr. Thomas. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Mid-Carolina Telephone Company, and REA deem appropriate. Prospective lenders are advised that it is anticipated that financing for this project will be available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration. Copies of REA Bulletin 320–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 in Rural Telephone Loans and Loan Guarantees.

Dated at Washington, D.C. this 19th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-24765 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Center Grove School Critical Area Treatment R.C. & D. Measure, Indiana; Environmental Impact Statement; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Eddleman, State Conservationist, Soil Conservation Service, 5610 Crawfordsville Rd., Indianapolis, Indiana 46224, telephone 317–269–6515.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500);

and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Center Grove School Critical Area Treatment RC&D Measure, Johnson County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include the construction of an erosion control stabilization structure, 1700 linear feet of grassed waterway with tile drains and 300 feet of diversion. Approximately 4 acres (including waterways) of seeding and fertilizing will be done after construction is completed.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Robert L. Eddleman. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 24, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: August 14, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-24680 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-16-M

Council Grove Public Water-Based Recreation RC&D Measure, Montana; Environmental Impact Statement; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Room 410, Federal Building, 32 East Babcock, P.O. Box 970, Bozeman, Montana 59715, telephone 406-587-5271, Ext. 4322.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Council Grove Public Water-Based Recreation RC&D Measure, Missoula County, Montana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the development of access and installation of basic recreational facilities at the Council Grove site owned by the Montana Department of Fish, Wildlife and Parks.

Items necessary for access development include an entry road, two culverts, a bridge, cattleguard, cul-de-sac, parking, barriers, fencing, and signs. Basic recreational facilities will include two trash receptacles, six picnic tables, a well for potable water, sanitary facilities designed for the handicapped, site preparation for safe boating access, and a historical interpretive sign.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K Haderlie. The finding of no significant impact has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 24, 1981.

Dated: August 14, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95, regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-24679 Filed 8-24-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11-81]

Proposed Foreign-Trade Zone—Phoenix, Arizona; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, Arizona (the City), requesting authority to establish a general-purpose foreign-trade zone within the Phoenix Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 17, 1981. The applicant is authorized to make this proposal under Section 44-6501 of the Arizona Revised Statutes.

The City proposes to establish the zone at the Freeport Center industrial park, a new project of the Phoenix Aspen Group. Located at Buckeye Road and 55th Avenue in Phoenix, near Sky Harbor International Airport, the zone project is part of the City's efforts to attract new industry and encourage expansion of existing business. The zone developer plans an 80,000 square foot multi-user structure for initial zone users within the 73-acre park. Open space is available for firms requiring their own assembly and light manufacturing facilities.

The application contains evidence of the need for zone services in the Phoenix area. Prospective tenants indicated an interest in using the zone for light manufacturing, assembly, exhibition and warehousing of agricultural equipment and supplies, electronic components and products, aircraft-related equipment, distilled spirits and mechanical equipment.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Paul R. Nichols (Chairman), Program Manager, Import Administration, U.S. Department of Commerce, Washington, D.C. 20230; M. T. Bishop, Supervisory Import Specialist, U.S. Customs Service, Region VII, P.O.

Box 670, 1500 Mariposa Highway, Nogales, Arizona 85621; and Colonel Gwynn A. Teague, District Engineer, U.S. Army Engineer District Los Angeles, P.O. Box 2711, Los Angeles, California 90053.

As part of its investigation, the examiners committee will hold a public hearing on September 24, 1981, beginning at 9:00 a.m., in the City Council Chambers, 251 West Washington Street, Phoenix Arizona 85003. The purpose of the hearing is to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by September 17, 1981. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through October 24, 1981. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Valley Bank Center, Suite 2950, 201 North Central Avenue, Phoenix, Arizona 85073;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2006, 14th and E Streets, N.W., Washington, D.C. 20230.

Dated: August 20, 1981.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 81-24701 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before September 14, 1981.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00141. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Article: Monochromator. Manufacturer: Bird & Tole Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of semiconductor and metal surfaces both atomically clean and with absorbates. Studies will include photo electron spectroscopy and surface extended x-ray absorption fine structure. Application received by Commissioner of Customs: February 13, 1981.

Docket No. 81-00142. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Article: Scanning Electron Microscope, Model HB501, Field Emission Source and Accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of article: The article is intended to be used to obtain chemical and crystal structure information at the highest spatial resolution possible. Application received by Commissioner of Customs: February 13, 1981.

Docket No. 81-00143. Applicant: The University of Chicago, Department of Radiology, 950 East 59th Street, Chicago, Illinois 60637. Article: Radiographic Digital Image Processing System. Manufacturer: Fuji Film Co., Ltd., Japan. Intended use of article: The article is intended to be used for radiographic imaging efficacy, specifically, image quality, resolution, noise and contrast. Experiments will involve production of processed radiographs in various diagnostic examinations, and observer performance studies to improve diagnostic accuracy and/or to reduce patient radiation exposure during various radiologic procedures. Application received by Commissioner of Customs: February 13, 1981.

Docket No. 81-00310. Applicant: Michigan Technological University, Department of Metallurgical Engineering, Houghton, MI 49931. Article: Jung Ultra-Milling Device for Non-ferrous Materials complete with Accessories. Manufacturer: Jung, West Germany. Intended use of article: The article is intended to be used for studies of metals and alloys. Application received by Commissioner of Customs: July 16, 1981.

Docket No. 81-00311. Applicant: Providence Hospital, 3200 Providence Drive, Pouch 6604, Anchorage, AK 99502. Article: Therac 20/Saturne Linear Accelerator with Accessories. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used in the treatment of cancer patients. Application received by Commissioner of Customs: July 16, 1981.

Docket No. 81-00313. Applicant: Moncrief Radiation Center, The Radiation & Medical Research Foundation of the Southwest, 1425 Enderly Place East, Fort Worth, TX 76104. Article: Radiotherapy Treatment Planning Simulator. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used to simulate treatments of patients undergoing megavoltage radiotherapy for cancer. Application received by Commissioner of Customs: July 17, 1981.

Docket No. 81-00315. Applicant: Carnegie Institution of Washington, 1530 P Street, N.W., Washington, D.C. 20005. Article: Electron Microscope, Model JEM 100S with Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for examination of several different types of preparations in the following research projects:

1. Genetic Specification of Cell Morphology
2. Regeneration of Particular Synapses
3. Nucleic Acid Research Involving Electron Microscopy
4. Mapping of *X. Borealis* oocyte-specific 5S DNA (XbO 5S DNA)
5. The dynamics of membrane Lipids
6. Muscle Cell Membranes Research

The article will also be used to train graduate students and post-doctoral fellows in use of a transmission electron microscope. Application received by Commissioner of Customs: July 17,1981.

Docket No. 81-00317. Applicant: Bigelow Laboratory for Ocean Science, McKnown Point, West Boothbay Harbor, Maine 04575. Article: Multi-channel Flow Colorimeter with Accessories. Manufacturer: ChemLab Instruments, Ltd., United Kingdom. Intended use of article: the article is intended to be used for studies of those elements thought to be essential in the nutrition of marine planktonic algae. Experiments will consist of the

colorimetric determination of those ionic forms of the elements present in seawater both in continuous flow chemistry (as in the construction of vertical distribution profiles in the water column using a pump sampling system) and for continuous flow analysis of discrete samples. These experiments will be conducted for the purpose of developing an understanding of the ecological significance of limiting nutrients in the marine environment. Application received by Commissioner of Customs: July 16, 1981.

Docket No. 81-00318. Applicant: Trustees of the University of Pennsylvania, Purchasing, 3541 Walnut Street, Philadelphia, PA 19104. Article: Mass Spectrometer, Model MM7070-H with Accessories. Manufacturer: VG Organic Limited, Ltd., United Kingdom. Intended use of article: The article is intended to be used for research covering the full range of synthetic and mechanistic organic, bioorganic and organometallic chemistry. This research will include:

(1) Extensive programs directed at the synthesis and/or isolation of novel natural products having important physiological properties,

(2) Development of new synthetic methods, employing a wide range of ground, excited state and organometallic chemistry,

(3) Development of new methods for the synthesis of transition metal cluster compounds, many of which may have catalytic properties of novel organic and inorganic polymer materials capable of conducting electricity,

(4) The study of the interactions among molecules present in neuromembranes in order to learn more about the chemistry and dynamics of neutrotransmission, and

(5) Use of radioactive photolabeling derivatives of antiobiotics as photoaffinity label probes to explore the structure and function of ribosomes. Application received by Commissioner of Customs: July 17, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-24698 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Article; U.S. Naval Research Laboratory

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00125. Applicant: U.S. Naval Research Laboratory, 4555 Overlook Avenue, Washington, D.C. 20375. Article: Specimen Holder for JEM 200C Electron Microscope. Manufacturer: Jeol Ltd., Japan. Intended use of article: See Notice on page 20584 in the **Federal Register** of April 6, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application relates to a compatible assessory for an instrument that has been previously imported for the use of the applicant institution. The article is being manufactured by the manufacturer which produced the instrment with which it is intended to be used. We are advised by the Department of Health and Human Services and the National Bureau of Standards in their memoranda dated June 17, 1981 and July 1, 1981 respectively that the accessory is pertinent to the applicant's intended uses and that they know of no comparable domestic article.

The Department of Commerce knows of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instruments with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-24699 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Article; University of Rochester

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00133. Applicant: University of Rochester, Nuclear Structure Research Laboratory, 271 East River Road, Rochester, New York 14627. Article: Particle Acceleration Tube. Manufacturer: Dowlish Developments, Ltd., United Kingdon. Intended use of article: See Notice on page 20581 in the **Federal Register** of April 6, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The application relates to an accessory for an existing Vande Graaff accelerator. The article replaces and upgrades a tube imported duty-free and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-24700 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Exporters' Textile Advisory Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department of Commerce officials concerning ways of increasing U.S. exports of textile and apparel products.

TIME AND PLACE: September 10, 1981 at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. (Public entrance to the building is on

14th Street, between Constitution Avenue and E Street, N.W.)

AGENDA: (1) Review of export data, (2) Report on conditions in the export market, (3) Recent foreign restrictions affecting textiles, (4) Other Business.

PUBLIC PARTICIPATION: A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Date: August 20, 1981.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 81-24687 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

Optic Liquid Level Sensing Systems From Canada; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revocation of Countervailing Duty Order.

SUMMARY: As a result of a request by the Government of Canada, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on optic liquid level sensing systems from Canada, manufactured by Honeywell Limited, would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise made on or after January 9, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, Room 2803, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1167).

SUPPLEMENTARY INFORMATION: On January 8, 1979, a countervailing duty order and suspension of liquidation with respect to optic liquid level sensing systems (OLLS) from Canada, manufactured by Honeywell Limited, was published in the **Federal Register** (T.D. 79-09, 44 FR 1728).

On January 9, 1980, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that an injury determination for this order had been requested under section 104(b) of the Trade Agreements Act of 1979 ("the TAA").

On April 9, 1981, the Department published the final results of its administrative review of this order as required by section 751 of the Tariff Act of 1930 (46 FR 21216). The Department determined that a net subsidy on OLLS of 9.1 percent of the f.o.b. invoice price was being conferred during the period of review and reported that rate to the ITC.

On July 22, 1981, the ITC published its determination that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reasons of imports of OLLS covered by the order if the order were revoked (46 FR 37825). As a result, the Department is revoking the countervailing duty order concerning optic liquid level sensing systems from Canada, manufactured by Honeywell Limited (T.D. 79-09), with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after January 9, 1980, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after January 9, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries. There are no known entries, or withdrawals from warehouse, for consumption made from January 1, 1980 through January 8, 1980.

This revocation is in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

August 19, 1981.

[FR Doc. 81-24661 Filed 8-24-81; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 79-2]

McArthur Enterprises, Inc., et al.; Prehearing Conference

In the Matter of McArthur Enterprises, Inc., a corporation, and David A. McArthur, individually and as an officer of the corporation and, William H. McArthur, individually and as an officer of the corporation.

Please take notice that a prehearing conference in this proceeding will be held on September 9, 1981, at 10:00 A.M., at the Interstate Commerce Commission, First Floor, Constitution Avenue and 12th Street, N.W., Washington, D.C. 20423, before the undersigned Administrative Law Judge.

The issues presented by the complaint in this proceeding are as follows:

(1) Whether the respondents have failed to meet the acceptance criterion of the Standard for the Surface Flammability of Carpets and Rugs, 16 CFR Part 1630.

(2) Whether these alleged practices are unlawful and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act, Section 3(a), 15 U.S.C. 1192(a).

(3) Whether respondent should be ordered to cease and desist from the future manufacture and sale of any carpet failing to conform to the above Standard.

The agenda for this prehearing conference includes the following:

(1) Setting a schedule for all remaining pretrial procedures including but not limited to motions and the exchange of witness lists, documents, and expected testimony.

(2) Narrowing of the issues.

(3) Setting a firm trial date.

(4) Consideration of the possibility of settlement.

(5) Any other proper matter which would aid in the efficient presentation or disposition of the proceeding.

Dated: August 14, 1981.

J. Lee Benice,

Administrative Law Judge.

[FR Doc. 81-24732 Filed 8-24-81; 8:45 am]

BILLING CODE 6355-01-M

DELAWARE RIVER BASIN COMMISSION

Pennsylvania; Well Water Supply Projects; Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Monday, August 31, 1981, commencing at 10:00 a.m., in the Goddard Conference Room at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be the applications for approval of the following projects as amendments to the Comprehensive Plan and pursuant to Section 3.8 of the Compact:

1. *Northampton Municipal Authority (D–80–91 CP).* A well water supply project to augment public water supplies in the authority's service area in Northampton Township, Bucks County, PA. Designated as Well No. 11, the new facility is planned for use at an average rate of 290,000 gallons per day.

2. *Hatfield Borough (D–80–94 CP).* A well water supply project to augment public water supplies in the Borough of Hatfield, Montgomery County, PA. Designated as Well No. 10, the new facility is planned for use at an average rate of 220,000 gallons per day.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

August 18, 1981.

[FR Doc. 81-24724 Filed 8-24-81; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Pentanyl Technologies, Inc., of Boulder, Colorado, an exclusive license to manufacture, use, and sell in the United States, the invention described in U.S. Patent No. 4, 152, 248, entitled "Hydrogenation of Coal Liquid Utilizing a Metal Carbonyl Catalyst." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 5 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C. on this 17th day of August 1981.

R. Tenney Johnson,

General Counsel.

[FR Doc. 81-24643 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses: Proposed Subsequent Arrangement; Austria

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer: RTD/Eu(AT)–58, from the Federal Republic of Germany to Austria, 2 grams of uranium, enriched to 93 percent of U–235, and 10 grams of thorium, in the form of fuel spheres for analysis.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 9, 1981.

For the Department of Energy.

Dated: August 20, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Affairs.

[FR Doc. 81-24771 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; Australia and Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreements for Cooperation Between the Government of the United States of America and the Governments of Australia and Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval for supply of the following materials:

Contract Number S–AU–106, to the Australian Radiation Laboratory, 29.35 grams of normal uranium, and 4.82 grams of thorium, for use as standard reference material.

Contract Number S–SD–119, to Switzerland, 1 milligram of thorium-230, 200 milligrams of uranium-235, 25 milligrams of uranium-233, and 5 milligrams of uranium-234, to be used as standards for measurement of uranium and thorium concentrations in geological materials.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 9, 1981.

For the Department of Energy.

Dated: August 20, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-24772 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Norway

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of

Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the the transfer of 7,000 grams of uranium, enriched to 8.571% U-235, and 25 grams of plutonium, for destructive examination. Upon completion of the examination, it is planned to store the material for about three years in the United Kingdom, and then to return the material to the United States.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement, designated as RTD/EU (NO)-34 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 9, 1981.

For the Department of Energy.

Dated: August 20, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Affairs.

[FR Doc. 81-24773 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale:

Contract Number S-JA-297, to Japan, 3 grams of uranium-233 for use in the safeguard analytical laboratory, Tokai-Mura.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 20, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Techical Programs.

[FR Doc. 81-24774 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-664-000]

Arkansas Power & Light Co.; Filing

August 18, 1981.

The filing company submits the following:

Take notice that on August 10, 1981, Arkansas Power and Light company (AP&L) tendered for filing a letter of notification from AP&L to The Empire District Electric Company (Empire) regarding a reduction in the Diversity Base Amount available to Empire pursuant to Service Schedule E of the Interconnection Agreement between AP&L and Empire, dated October 8, 1941, and FPC Rate Schedule No. 14.

The Diversity Base Amount made available during the summer and Winter Exchange Periods is to be reduced to 7,000 KW from 11,000 KW.

AP&L requests that the advance notice requirement be waived to allow the reduced Diversity Base Amount to be placed in effect at the end of the Exchange Year that ends in November, 1980.

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 September 9, 1981. 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. 81-24777 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-295-001]

Black Warrior Pipeline Co.; Petition To Amend

August 20, 1981.

Take notice that on July 20, 1981, Black Warrior Pipeline Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP-79-295-001 a petition to amend the order issued August 31, 1979, in the instant docket pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Commission's Regulations so as to approve the long-term transportation of certain additional reserves of natural gas on behalf of Southern Natural Gas Company (Southern) and the rates to be charged for such service, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner, an intrastate pipeline, states that it currently transports gas for Southern, an interstate pipeline, from the Corinne Field, Monroe County, Mississippi, to an interconnection with Southern's pipeline facilities near Southern's Muldon storage field, Monroe County, Mississippi, pursuant to the Commission's order issued August 31, 1979, in the instant docket. It is stated that Petitioner and Southern have amended their earlier agreement so that Petitioner would transport for Southern additional reserves acquired by Southern in the Corinne Field, Monroe County, Mississippi. It is also asserted that the amended agreement incorporates delivery of gas from two additional wells in the Corinne Field.

Petitioner proposes to charge Southern the following rates under the amended transportation agreement but there would be no commodity or overrun charge for transportation of Southern's newly acquired additional reserves:

Demand Charge—(Based on a contract demand quantity of 25,000 Mcf per day)—$2.08 per Mcf of daily contract demand

Commodity Charge—(For all quantities of gas redelivered on any day up to the contract demand quantity)—$0.08 Mcf per.

Overrun Charge—(For all quantities of gas redelivered on any day in excess of the contract demand quantity)—$0.08 Mcf per.

Petitioner proposes to charge a rate of 8.0 cents per Mcf under the amended transportation agreement. It is stated that the above-described rates are based on those approved by order

issued August 31, 1979, in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 10, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24788 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-673-000]

Carolina Power & Light Co.; Filing

August 18, 1981.

Take notice that Carolina Power & Light Company, on August 10, 1981, tendered for filing Amendments to the Contract, FPC No. 103, between Carolina Power & Light Company and the Southeastern Power Administration. CP&L states that the Contract Amendments provide for extensions of the contract and an adjustment in wheeling fee paid by the Southeastern Power Administration to Company. Amendment No. 2 extended the contract period from June 30, 1980, to June 30, 1981. Amendment No. 3 extends the contract period from June 30, 1981, to June 30, 1982. Carolina Power & Light Company requests that these Contract Amendments be permitted to become effective 60 days after filing.

Copies of this filing have been sent to the appropriate parties.

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 September 9, 1981. 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. 81-24778 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-442-000]

Cities Service Gas Co.; Application

August 20, 1981.

Take notice that on July 31, 1981, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP81-442-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain natural gas facilities on its transmission and gathering system and for a certificate of public convenience and necessity authorizing the construction and operation of certain replacement facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to abandon and to construct and operate the following:

(1) Abandon by sale to The Gas Service Company approximately 0.42 mile of 8-inch and 0.02 mile of 4-inch pipeline and appurtenant facilities and relocate the King's Garden town border station in Reno County, Kansas.

(2) Abandon in place approximately 0.89 mile of pipeline and appurtenant facilities on the west 12-inch loop of the Arkansas River Crossing on the Drumright-Tallant 16-inch pipeline beginning in Pawnee County, Oklahoma, and ending in Osage County, Oklahoma.

(3) Abandon by reclaim a dual 6-inch meter setting at the Cotton Valley measuring station in Washington County, Oklahoma.

(4) Abandon by reclaim approximately 1.50 miles of 6-inch and 0.38 mile of 4-inch gathering pipeline and appurtenant facilities in the Kansas-Hugoton field, Amoco "B" System in Kearny County, Kansas.

It is asserted that the facilities Applicant proposes to abandon are largely inadequate and obsolete in view of operational requirements. Applicant states that where necessary new facilities would replace inadequate and obsolete facilities to efficiently and economically meet market requirements on Applicant's pipeline system. Applicant contends that the abandonments and construction and operation proposed herein would enhance Applicant's ability to provide service to its customers. Applicant also submits that no abandonment of gas service to any existing customers would result from the proposed abandonments.

The costs for the proposed construction is estimated to be $22,380 which would be paid from treasury cash, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act 18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24789 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP74-320-002]

Colorado Interstate Gas Co.; Petition to Amend

August 20, 1981.

Take notice that on August 6, 1981, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP74-320-002 a petition to amend the order issued October 8, 1975,[1] as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to permit the use of existing compressor units for withdrawal as well as injection operations, 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 by order issued October 8, 1975, it was authorized to construct certain facilities over a five-year period beginning in early 1975 to establish the Latigo Field in Arapahoe County, Colorado, as a natural gas storage field. Petitioner further states that subsequent operational changes on its system have resulted in higher main line pressures at the point of entry for gas from the Latigo Field and have caused a reduction in the deliverability capacity of the storage facility. It is explained that the field deliverability would be restored by repiping the existing compressor facilities to permit compression during withdrawal operations. Petitioner seeks to use the existing compressor units for withdrawal as well as injection operations to increase peaking service efficiency.

Petitioner states that the modification would require certain additional facilities and reconfiguration of the yard piping to allow compression in both directions. Petitioner asserts that the modification would not change the peak day or annual withdrawal capacity of the Latigo Field.

The total estimated cost for this conversion is $297,000 which cost would be financed by funds on hand, funds from operations, short-term borrowing, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 10, 1981, 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. 81-24790 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP81-448-000]

Columbia Gas Transmission Corp.; Application

August 21, 1981.

Take notice that on August 3, 1981, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-448-000 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 73 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commisison and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 3 taps for residential service, Estimated annual usage of 450 Mcf.

(2) Columbia Gas of Ohio, Inc.: 40 taps for residential service; 4 taps for commercial service; 2 taps for industrial service; 1 tap for combined residential and commercial service; 1 tap for combined residential and industrial service; Estimated annual usage of 13,460 Mcf.

(3) Columbia Gas of Pennsylvania, Inc.: 9 taps for residential service; 1tap for commercial service; 1 tap for industrial service; Estimated annual usage of 34,400 Mcf.

(4) Columbia Gas of West Virginia, Inc.: 8 taps for residential service, Estimated annual usage of 1,350 Mcf.

(5) The Dayton Power and Light Company: 2 taps for residential service; 1 tap for industrial service, Estimated annual usage of 6,668 Mcf.

Applicant estimates that the total cost of the interconnections would be $36,922 which cost would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 11, 1981 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 proceeeding. 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. 81-24793 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER77-488 and ER78-520 (Phase II)]

El Paso Electric Co.; Refund Report

August 18, 1981.

The filing company submits the following:

Take notice that on August 10, 1981, The El Paso Electric Company (El Paso) filed a refund report pursuant to Commission Opinion No. 109, issued January 29, 1981.

Copies of the refund report have been sent to each jurisdictional customer served under the subject rate schedule, to the New Mexico Public Service Commission and to the Public Utility Commission of Texas.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 9, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24779 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-100-000]

El Paso Natural Gas Co.; Tariff Filing

August 20, 1981.

Take notice that on August 4, 1981, El Paso Natural Gas Company ("El Paso"), pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, tendered for filing and acceptance the following revised tariff sheets to El Paso's FERC Gas Tariff, Original Volume No. 1:

Twenty-fourth Revised Sheet No. 1
Tenth Revised Sheet No. 1-A
Twenty-third Revised Sheet No. 4
First Revised Sheet No. 5
Fifth Revised Sheet No. 47
Fourth Revised Sheet No. 52
Third Revised Sheet No. 63-H

El Paso states that the tariff sheets, when accepted for filing and permitted to become effective, will serve to reduce the number of tariff rate schedules by replacing nine (9) rate schedules with one (1) rate schedule statement. This is accomplished by combining the nine (9) Rate Schedules A-1, A-2, A-3, B-1, B-2, B-3, D-1, D-2 and D-3 (for sales to distributor companies for resale) into a single general rate schedule statement identified as three (3) rate schedules to reflect three (3) established rate zones.[1] Further, as a result of establishing the ABD Rate Schedules by combining said currently effective rate schedules El Paso is tendering certain tariff sheets which, when accepted for filing and permitted to become effective, will service to revise the Table of Contents and Sections 4A.3, Rate Schedules to Which Lateral Formula is Applicable, 5.1, City Gate Billing, and Section 11.7(b)(v), Service Rules, of the General Terms and Conditions contained in said Original Volume No. 1 Tariff.

[1]This procedure is similar to that adopted by other pipelines and accepted by the Commission, see e.g. Tennessee Gas Pipeline Company and Northern Natural Gas Company, Division of InterNorth, Inc.

El Paso proposes to establish the ABD Rates Schedules in order to: (i) eliminate duplication from its Statement of Rates by combining in one rate schedule applicable to each state the three rate schedules (denominated "A", "B" and "D", respectively) pursuant to which El Paso currently renders service from its mainline system to distributors within that state, inasmuch as the rates thereunder are identical; (ii) explicitly identify the long established rate zones consisting of the States of Texas, New Mexico and Arizona; and (iii) alleviate unnecessary accounting and reporting requirements presently required by having nine (9) separate rate schedules.

The proposed ABD Rate Schedules do not in any way change the currently effective rates now contained in El Paso's Original Volume No. 1 Tariff.

El Paso has requested that the tendered tariff sheets be permitted to become effective on the first day of the first month thirty (30) days after the date of filing or the first day of such later month as the Commission may order.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before August 28, 1981, 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). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24791 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-457-000]

El Paso Natural Gas Co., Application

August 21, 1981.

Take notice that on August 10, 1981, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-457-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain existing facilities and the transportation and sale of natural gas to the Navajo Tribal Utility Authority (NTUA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the NTUA and Applicant's current customer, Southern Union Gas Company, a Division of Southern Union Company (Southern Union), have entered into an agreement dated May 8, 1981, which provides for the sale by Southern Union and purchase by the NTUA of the gas distribution system owned and utilized by Southern Union in its gas operations in and about the community of Leupp, Arizona, and environs. It is submitted that Southern Union currently provides natural gas service to residential customers in the Leupp, Arizona, area with volumes sold and delivered to Southern Union by Applicant at the existing Leupp Boarding School delivery point pursuant to a service agreement dated February 1, 1970.

Applicant asserts that in order to accommodate the NTUA's succession to Southern Union's gas distribution system Applicant and Southern would delete the Leupp Boarding School delivery point from their February 1, 1970, service agreement while the NTUA and applicant would add such delivery point to their currently effective service agreement dated September 15, 1970.

Applicant further asserts that no new facilities would be required to effectuate the proposed service and that the delivery and sale of natural gas to the NTUA would be made at the applicable rates contained in Applicant's Rate Schedules A-1 and B-1 of its FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 11, 1981, 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. 81-24792 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-375-001]

Great Lakes Gas Transmission Co.; Amendment to Application

August 21, 1981.

Take notice that on July 9, 1981, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP81-375-001 an amendment to its pending application in the instant docket filed pursuant to Section 7(c) of the Natural Gas Act so as to include in its rate adjustment volumes of natural gas sold to Michigan Wisconsin Pipe Line Company (Mich Wis) and Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that by order issued June 1, 1971, it was authorized to purchase from TransCanada PipeLines Limited (TransCanada) and import up to 17,000,000 Mcf of natural gas annually for fuel and other company use pursuant to a gas purchase contract with TransCanada dated June 11, 1971. It is submitted that Applicant has never required all of the gas authorized and since receiving such authorization has purchased and imported a total of 105,844,654 Mcf of natural gas less than was authorized.

It is further stated that in its pending application in the instant docket Applicant requested authorization to sell a portion of such deficiency volumes to Mich Wis and Natural at a rate of up to 12,500 Mcf per day each under the terms and conditions of existing service agreements between Applicant and Mich Wis and Natural. Applicant submits that such sales would extend until October 31, 1991.

Applicant asserts that pursuant to 154.38(d)(4), footnote 1, of the Commission's Regulations such gas supplies may not be reflected in Applicant's purchased gas adjustment without prior approval of the Commission. Accordingly, Applicant requests such Commission approval.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 11, 1981, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24794 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2850-001]

Hampshire Paper Co.; Application for Major License

August 18, 1981.

Take notice that the Hampshire Paper Company filed on June 8, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the continued operation of a constructed water power project known as the Emeryville Project No. 2850. The project is located on the Oswegatchie River, a tributary to the St. Lawrence River, in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mr. Robert J. Ferero; Hampshire Paper Company; R.F.D. 3; Gouverneur, New York 13642.

Project Description—The existing run-of-the-river project consists of: (1) a reinforced concrete dam, 185 feet long and about 8 feet high with an overflow section approximately 17 feet long having a crest elevation of 584.2 feet (USGS datum) and surmounted by 2-foot high flashboards; (2) a headpond with a storage capacity of 307 acre-feet at a mean surface elevation of 586.6 feet (USGS datum); (3) four headgates; (4) a headrack structure; at the entrance of (5) a steel reinforced wooden power flume 123 feet long, 121 feet wide and 19 feet high; (6) a powerhouse containing four generators with a total rated capacity of 1,680 kW at a net head of 32 feet and a flow of 793 c.f.s.; (7) electrical facilities to distribute power; and (8) appurtenant works.

Purpose of Project—The Applicant would continue to sell the project energy generated to the Niagara Mohawk Power Corporation. The average energy output for the project is 8,600,000 kWh.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 22, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 19, 1982. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), as amended, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely filed a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 22, 1981. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the

Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24795 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-68-000]

Kern County Refinery, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

August 18, 1981.

Take notice that Kern County Refinery, Inc. on August 14, 1981 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before Sept. 2, 1981 with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before Sept. 2, 1981 in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Wshington, D.C. 20406.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24780 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-108-000]

Locust Ridge Gas Co.; Proposed Changes in FERC Gas Tariff

August 18, 1981.

Take notice that Locust Ridge Gas Company (Locust Ridge) on August 12, 1981, tendered for filing proposed changes in its FERC Gas Tariff Original Volume No. 1. The proposed changes would implement a change in rates and service to Mid Louisiana Gas Company. Locust Ridge has requested consolidation of this filing with its pending rate proceeding in Docket RP80-141.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commisison, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commisison's rules of practice and procedure (18 CFR 1.8, 1.10). All such petition or protests should be filed on or before September 3, 1981. Protests will be considered by the Commisison 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. 81-24796 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-672-000]

Louisville Gas and Electric Co.; Filing

August 18, 1981.

Take notice that Louisville Gas and Electric Company (LG&E) on August 10, 1981, tendered for filing pursuant to the Interconnection Agreement between LG&E and Tennessee Valley Authority (TVA), a Second Supplemental Agreement.

The purpose of this filing is to amend said Interconnection Agreement to comply with FERC Orders 84 and 84-B, and to increase the demand charge for Short Term Power from 70¢ per kilowatt-week and one-sixth of the weekly demand charge per kilowatt of billing demand per day to 85¢ per kilowatt-week and one-fifth of the weekly demand charge per kilowatt of billing demand per day. Further changes were made in the Emergency Assistance Service Schedule A that deletes the 100,000 Kwh per hour limitation, and adds a provision for settlement of return energy balances within one year if so requested by the supplying party.

With respect to the modification to comply with Commission Orders 84 and 84-B, LG&E requests an effective date of September 1, 1980, as established in Order 84-B. With respect to all other changes embodied in this amendment, LG&E requests an effective date of July 2, 1981.

Copies of the filing were served upon Tennessee Valley Authority.

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 September 9, 1981. 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 in intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24782 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

Docket No. ST81-381-000

Louisiana Intrastate Gas Corp.; Application for Approval of Rates and Charges

August 20, 1981.

Take notice that on July 23, 1981, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81-381-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on July 10, 1981, Applicant and Southern entered into a transportation agreement whereby Applicant is to provide a transportation service for Southern for a two-year period commencing on the date of initial delivery. It is further stated that under the agreement, Applicant is to accept gas from Southern or for its account at specified points of delivery in Pointe Coupee Parish, Louisiana, for redelivery

to Southern or for Southern's account at specified points of receipt in Pointe Coupee Parish, Louisiana. Gas is then again accepted by Applicant at the truckline points of delivery in Pointe Coupee Parish, Louisiana, for Southern's account and a thermally equivalent volume of gas is redelivered to Southern for resale less those volumes consumed as compressor fuel, company use and unaccounted-for gas, it is asserted.

Applicant proposes to charge Southern a base transportation charge of 27.0 cents per million Btu of gas redelivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1981, 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 CR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24781 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-2-25-002]

Mississippi River Transmission Corp.; Rate Change Filing

August 17, 1981.

Take notice that on July 31, 1981 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Seventy-Ninth Revised Sheet No. 3A and Fourth Revised Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of September 1, 1981 is proposed.

The filing is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. Seventy-Ninth Revised Sheet No. 3A reflects the implementation of revised PGA tariff provisions, and base rates tracking adjustments pursuant to Stipulation and Agreements dated December 11, 1979 and April 30, 1981 at Docket No. RP78-77. Fourth Revised Sheet No. 3D indicates that Mississippi projects zero incremental pricing surcharges of its direct market and sale for resale customers.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 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 petition or protests should be filed on or before August 25, 1981. 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. 81-24783 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-21]

Missouri Utilities Co.; Refund Compliance Report

August 18, 1981.

The filing company submits the following:

On July 31, 1981, Missouri Utilities Company (Missouri) filed a refund compliance report in accordance with the Commission's letter orders issued July 26, 1979 and June 22, 1981 accepting the proposed settlement rate submitted on April 27, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 9, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24784 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-44]

Natural Fuel Gas Supply Corp; Protests of Assertions of Authority To Charge NGPA Rates

August 20, 1981.

Take notice that on August 3, 1981, the Staff of the Federal Energy Commission (Commission Staff) filed a protest in accordance with § 154.94(j) to the assertion by the natural gas producers listed in Appendix A that they have contractual authority to collect maximum lawful prices under sections 102, 103, 104, or 106(a) of the Natural Gas Policy Act of 1978 (NGPA). Take notice also that on June 25, 1981, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203 (National Fuel) filed a protest to the assertion of contractual authority by Glenbrook Oil & Gas, Inc. (Glenbrook) to collect the NGPA section 108 rate for sales to National Fuel.

In its protest, the Commission Staff joins in National Fuel's "two-party" [1] protest to the Glenbrook contract and also protests the assertion by certain producers that they have contractual authority to collect NGPA rates pursuant to National Fuel's Contract No. 26152 covering sales of natural gas from the Sheridan Field, Texas. The Staff bases its third-party [2] protest on contradictory statements of intent made by National Fuel respecting a similar "area rate rate clause" that is the subject of National Fuel's two-party protest of the Glenbrook contract. Finally, the Staff also protests the collection of retroactively effective rate increases based on retroactively effective contract amendments dated April 10, 1979 covering purchases of natural gas by National Fuel.

National Fuel protests the Glenbrook contract on the basis that the contract was not intended to authorize payment of NGPA rates and that acceptance of an April 10, 1979 contract amendment offer authorizing payment of the NGPA section 104 rate constitutes proof of that intent. National Fuel also incorporates by reference its "Answer In Opposition to Petition for Declaratory Order" filed June 4, 1981, in *Glenbrook Oil & Gas, Inc.*, Docket No. GP81-15-000. National Fuel also seeks a waiver of the filing requirements of § 154.40(c)(v)(B)(i) respecting protests of small producer contracts.

Any person, except National Fuel and the producers listed in Appendix A,

[1] A two-party protest is a protest filed by a party to the contract.

[2] A third-party protest is a protest by a person not a party to the contract.

desiring to participate in this proceeding must file a petition to intervene in accordance with § 1.8, 18 CFR 1.8, of the Commission's Rules of Practice and Procedure on or before September 10, 1981 with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W. 20426.

Kenneth F. Plumb,

Secretary.

Appendix A

Company and Rate Schedule or Contract No.

Glenbrook Oil & Gas, Inc.—October 10, 1974 (as amended)
Shell Oil Company—R/S No. 13 (No. 26152)
Sun Oil Company—R/S No. 267 (No. 26152)
Gulf Oil Corporation—R/S No. 328 (No. 26152)
Getty Oil Corporation—R/S No. 1 (No. 26152)
Enserch, Inc.—R/S No. 55 (No. 26152)
Ankemans's—No. 26152

[FR Doc. 81-24797 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2981-001]

Nevada Irrigation District; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 19, 1981.

Take notice that on July 10, 1981, Nevada Irrigation District (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project FERC Project No. 2981 would be located on the Bear River, near Auburn, in Placer and Nevada Counties, California. Correspondence with the applicant should be directed to: Fred G. Bandy, General Manager, Nevada Irrigation District, P.O. Box 1019, Grass Valley, California 95945.

Project Description—The proposed project would consist of: 1) the existing 28-foot high Combie Dam; 2) Lake Combie, a 360-acre reservoir; 3) a 175-foot long penstock; 4) a powerhouse containing one 3,500-kW generating unit; and 5) an existing transmission line.

Purpose of Project—The energy generated by the project would be sold to a public utility.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 2, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 2, 1981.

Filing and Service of Responsive Documents—Any filings, must bear in all in capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24798 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-143-001]

Northern Natural Gas Company, Division of InterNorth, Inc.; Amendment to Application

August 20, 1981.

Take notice that on July 29, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-143-001 an amendment to its application filed pursuant to Section 7(c) of the Natural Gas Act on January 15, 1981, so as to reflect a change in the transfer of the firm entitlement of Northern States Power Company (NSP), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its original application it proposed to transfer 17,000 Mcf of NSP's firm daily entitlement under Applicant's Rate Schedule CD-1 assigned to St. Paul, Minnesota, to North Branch, Minnesota, for sale to NSP under Applicant's Rate Schedule PL-1.

Applicant indicates that NSP and Midwestern Gas Transmission Company (Midwestern) have since entered into an agreement whereby Midwestern agreed to transport 15,000 Mcf of the PL-1 gas to NSP's Midwestern-supplied system. Therefore, Applicant proposes a reduction in the volume to be transferred to Rate Schedule PL-1 from 17,000 to 15,000 Mcf.

Applicant states that NSP has provided for adequate peak day coverage of the St. Paul market area prior to transfer of contract demand. Applicant states that the agreement providing for dedication of 15,000 Mcf of

NSP's LPG sendout capability to another gas distributor terminated on April 15, 1981. Applicant, therefore, asserts that NSP's peak day LPG sendout capability was increased by 15,000 Mcf as of that date thus allowing those LPG volumes to be available for peak day coverage in the St. Paul market area. Applicant further asserts that the termination of the agreement has made an additional annual storage volume equivalent to 200,000 Mcf available.

Applicant states that NSP and Applicant have agreed to certain revisions to the LNG Service Agreement. It is said that if by November 26, 1981, Applicant has not received authority in Docket No. CP80-135 to sell to NSP a minimum of an additional 15,000 Mcf per day under Applicant's Rate Schedule SS-1, NSP may reduce Applicant's daily sendout entitlement under the agreement from 65,000 to 50,000 Mcf. Applicant explains that this would provide NSP with additional daily sendout capability of 15,000 Mcf commencing with the 1981-1982 heating season.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 10, 1981, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-24799 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-663-000]

Oklahoma Gas & Electric Co.; Filing

August 18, 1981.

The filing company submits the following:

Take notice that on August 10, 1981, Oklahoma Gas and Electric Company (OG&E) tendered for filing a letter of notification from Arkansas Power and Light Company by Middle South Services, Inc., Agent (AP&L) to OG&E regarding a reduction in the Diversity Base Amount available to OG&E pursuant to provisions of the Interconnection Agreement between AP&L and OG&E, dated July 12, 1954, FPC Rate Schedule 21A. The Diversity Base Amount made available during the Summer and Winter Exchange Periods are to be reduced to 208,000 kW from 325,000 kW.

OG&E requests a waiver of the notice requirements to allow the reduced Diversity Base Amount to become effective at the end of the Exchange Year that ends in November 1980.

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 September 9, 1981. 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. 81-24786 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-667-000]

Public Service Co. of Oklahoma; Filing

August 18, 1981.

The filing company submits the following:

Take notice that on August 10, 1981, Public Service Company of Oklahoma (PSO) tendered for filing a letter of notification from Southwestern Electric Power Company (SWEP) to PSO regarding a reduction in the Diversity Base Amount available to PSO during the Summer and Winter Exchange Periods pursuant to the provisions of Service Schedule E of the interconnection agreement between PSO and SWEP, FERC Rate Schedule No. 118.

PSO requests a waiver of the advance notice requirement to allow the reduced Diversity Base Amount to be placed into effect at the end of the exchange year that ends in November 1980.

Copies of this filing have been sent to the Oklahoma Corporation Commission and Southwestern Electric Power Company.

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 September 9, 1981. 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. 81-24786 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-456-000]

Transcontinental Gas Pipe Line Corp.; Application

August 21, 1981.

Take notice that on August 10, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-456-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Owens-Corning Fiberglas Corporation (Owens-Corning) for a term of fifteen years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that on December 1, 1980, Applicant and Owens-Corning entered into a transportation agreement for an initial term of fifteen years from the date of initial deliveries open to extension by written agreement by the parties. Pursuant to such transportation agreement Applicant proposes to receive for the account of Owens-Corning up to the dekatherm (dt) equivalent of 1,800 Mcf of natural gas per day from Willcorp, Inc. (Willcorp), Owens-Corning's subsidiary, at an existing interconnection in the North Rucias Field, Brooks County, Texas, and redeliver thermally equivalent quantities to Owens-Corning at its Anderson, South Carolina, plant. Applicant asserts that the quantities transported on any day would not exceed a quantity equal to the quantity which Applicant may be

curtailing Owens-Corning on such day under a direct sale agreement between the parties dated September 8, 1954, as amended. It is stated that during the periods that Applicant is not curtailing Willcorp would sell all of its share of the gas in the North Rucias Field to Applicant. During the periods that Applicant is curtailing Willcorp would sell to Applicant, short of requiring Owens-Corning to take all of Willcorp's share of the North Rucias gas, the portion of such gas which Owens-Corning does not need to fill the gap created by Applicant's curtailment, it is asserted.

Applicant states that for the proposed transportation service Owens-Corning would pay Applicant 26.97 cents per dt equivalent delivered at the Anderson, South Carolina, plant. It is submitted that such rate is the sum of the 23.5 cents per dt equivalent charge for transportation from Applicant's production area to Applicant's Rate Zone 2 contained in Applicant's Rate Schedule T, a 0.47 cent charge for the GRI General R&D funding and 3.0 cents per dt equivalent for transportation service through the facilities constructed by Applicant which connect Applicant's system with the producers' facilities in the North Rucias Field. Applicant avers that this transportation rate went into effect on January 1, 1981, but is subject to refund depending on the outcome of proceedings in Applicant's general rate filing in Docket No. RP80-117. Furthermore, Applicant states that it would retain 4.6 percent for compressor fuel and line loss make-up.

It is asserted that the proposed transportation service would enable Owens-Corning to receive into its system gas from its wholly owned subsidiary, Willcorp, which would help Owens-Corning maintain adequate and reliable supplies for its Anderson, South Caroilna, plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 11, 1981, 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. 81-24600 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-446-000]

Transcontinental Gas Pipe Line Corp.; Application

August 20, 1981.

Take notice that on July 31, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-446-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas on behalf of Con Ed which Con Ed has arranged to purchase from Bay State Gas Company (Bay State). Applicant states that Bay State would make available to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) quantities of gas which Tennessee would transport and deliver to Applicant at the existing Riverdale interconnection in Bergen County, New Jersey. Applicant proposes to receive up to 51,750 dekatherms (dt) equivalent per day and would redeliver equivalent quantities, less quantities retained for compressor fuel and line loss make-up, to Con Ed at Applicant's existing delivery points to Con Ed in the New York metropolitan area. Applicant states that the proposed transportation service is for a term beginning on the date of initial deliveries and ending October 31, 1981, or on the expiration of the "fuel shortage emergency period" as defined in 284.201(e) of the Commission's Regulations whichever first occurs. Applicant asserts that the transportation would be interruptible and would be subordinate to existing transportation arrangements on Applicant's system and to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, PS, GSS and WSS. Applicant further states that such transportation service is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to Applicant's existing customers.

Applicant states that for such transportation service Con Ed would initially pay Applicant 7.0 cents per dt equivalent delivered and Applicant initially would retain 0.7 percent of the quantities received for compressor fuel and line loss make-up. Applicant proposes to retain all revenues received for the subject transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1981, 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. 81-24801 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-676-000]

Tucson Electric Power Co.; Filing

August 18, 1981.

The filing company submits the following:

Take notice that on August 11, 1981, Tucson Electric Power Company (Tucson) tendered for filing an amendment to the Interconnection Agreement between Tucson and Utah Power & Light Company (Utah).

The primary purpose of the amendment is to enable Tucson to assist Utah in covering its July 1981 capacity requirements during the outage of a coal-fired unit of Utah's Naughton Power Plant.

Tucson respectfully requests that the Commission accept this amendment for filing so that service thereunder may become effective July 1, 1981.

A copy of this filing has been sent to Utah Power & Light Company.

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 September 9, 1981. 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. 81-24787 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-109-00]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

August 20, 1982

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), on *Aug. 14, 1981*, tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2. Texas Eastern has filed four alternative sets of revised tariff sheets underlying its proposed major rate increase. The primary revised tariff sheets reflect utilization of the *United* method of cost classification for allocation and rate design purposes and utilization of the *South Georgia* method of amortizing Texas Eastern's future unfunded tax liability. In the event of a decision directing Texas Eastern to utilize the *Seaboard* method of cost classification for allocation and rate design purposes and/or in the event the Internal Revenue Service (IRS) does not issue a ruling satisfactory to Texas Eastern permitting Texas Eastern to utilize the *South Georgia* method without jeopardizing its ability to take accelerated depreciation, Texas Eastern will file to place into effect the revised tariff sheets included in Alternates I, II or III, as appropriate. The proposed increased rates reflected in the revised tariff sheets included in Alternates I and II would increase revenues from jurisdictional sales and services by approximately $192 million based on twelve months ended April 30, 1981 as adjusted. The revised tariff sheets submitted by Texas Eastern which reflect the inclusion of the *South Georgia* method, i.e., the primary revised tariff sheets and the revised tariff sheets reflected in Alternate III, will result in an increase of $189 million. Approximately $10 million of the proposed increase can be attributed to purchased gas cost increases and advance payment recoveries reflected in the proposed rate level but not accounted for in the present rate level which Texas Eastern will track under applicable provisions of its FERC Gas Tariff and the Stipulation and Agreement approved in *Texas Eastern Transmission Corporation*, Docket No. RP78-87. The remainder of the increase is related to other than purchased gas cost increses and advance payment recoveries.

Texas Eastern states that the principal reasons for the proposed rate increase are:

(1) Increased cost of labor, expenses, plant facilities, and working capital requirements;

(2) The need for an increased overall rate of return of 15%;

(3) Increased taxes, including income taxes associated with increased return; and

(4) Lower sales than those on which its current rate established in Docket No. RP78-87 are based.

In addition to its proposed major rate increase, Texas Eastern has filed revised tariff sheets to reflect changes in and additions to its FERC Gas Tariff and related rate schedules as follows:

(1) A revision in its PGA tariff provision, Section 23, to permit sales basis accounting, a separate base cost by demand and commodity components and inclusion of the cost of exchange gas in Account 806 in the PGA calculation;

(2) A new transmission and compression tracking provision based on a provision currently in effect and approved by the Commission in *Texas Eastern Transmission Corporation*, Docket No. RP78-87;

(3) A new electric power tracking provision;

(4) A revised Rate Schedule I that (a) would permit sales of surplus gas to customers on a year-round basis without reducing their entitlement under Texas Eastern's curtailment plan, (b) would apply on a system-wide basis Texas Eastern's WS winter rate for excess gas during the winter months and a 100% load factor DCQ rate system-wide during the summer months;

(5) A revised Rate Schedule TS-1 to (a) require the customers to purchase all gas tendered daily under the DCQ Rate Schedule prior to taking gas under the TS-1 Rate Schedule and a penalty if a customer take less than 96% of the gas available to it under Texas Eastern's GS Rate Schedule, (b) recognize that Texas Eastern is not required to expand capacity to perform under its TS-1 Rate Schedule and that Texas Eastern will be indemnified against any losses resulting from interruption or curtailment of transportation under the TS-1 Rate Schedule, and (c) revise the shrinkage factors;

(6) A revised Rate Schedule TS and TS-2 to (a) revise the shrinkage factors, (b) recognize that Texas Eastern is not required to expand capacity to provide service under TS and TS-2 and is indemnified against any losses resulting from interruption of transportation under TS and TS-2, and (c) restrict the use of TS and TS-2 to contracts effective prior to September 1, 1981;

(7) Changes in the General Terms and Conditions of Texas Eastern's tariff with respect to possession and responsibility for gas and warranty of title respecting

transportation, exchange and/or storage arrangements;

(8) A new Section 12.6 of the General Terms and Conditions of Texas Eastern's tariff to include priority of service requirements for certain transportation services;

(9) A new Section 4.6 of the General Terms and Conditions of Texas Eastern's tariff setting forth quality provisions applicable to gas tendered for transportation;

(10) Revised Forms of Service Agreements for TS, TS–1 and TS–2 rate schedules to make technical and conforming changes;

(11) A change in Section 4.2(a) of the General Terms and Conditions of Texas Eastern's tariff reducing the minimum Btu value from 977 to 967 Btu's per cubic foot;

(12) Revisions in the penalty provisions of Texas Eastern's tariff to increase penalties to $20 per dekatherm.

(13) Revisions in four Volume No. 2 Agreements to reflect new shrinkage factors.

(14) Elimination of a reduction in the Zone D demand charge due to interruption of the Consolidated System LNG Company Exchange.

All of the alternatives include a change in rate design within zones because of changing Texas Eastern's SGS rate schedule from a 50% load factor to a 35% load factor average price under the DCQ rate schedule.

Texas Eastern has requested waiver of any rules and regulations of the Commission to the extent required to put the foregoing major rate increase, tariff revisions and rate schedule revisions into effect.

Any person desiring to be heard or to protest such filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such Petitions or Protests should be filed on or before September 3, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this 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. 81-24747 Filed 8-24-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-1917-5]

National Air Pollution Control Techniques Advisory Committee; Notice of Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on September 22 and 23, 1981, at the Ramada Inn of Old Town, Ramsay Room (2nd floor), 901 North Fairfax Street, Alexandria, Virginia 22314. The commercial telephone number is (703) 683–6000.

The tentative agenda for the meeting is as follows:

September 22 (Tuesday)—9 a.m.

Synthetic Fiber Production Facilities, New Source Performance Standard (Section 111 of the Clean Air Act)

Flexible Vinyl Coating and Printing Operations; New Source Performance Standard (Section 111 of the Cean Air Act)

September 23 (Wednesday)—9 a.m.

Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry, New Source Performance Standard (Section 111 of the Clean Air Act)

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by September 15, 1981. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

The dockets containing material relevant to synthetic fiber production facilities (A–80–7), flexible vinyl coating and printing operations (A–80–8), and air oxidation processes in the synthetic organic chemical manufacturing industry (A–81–22) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected beween 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: August 17, 1981.

Walter C. Barber, Jr.,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-24895 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-26-M

[OPTS-51306; TSH-FRL-1917-7]

Polyacrylate Homopolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of one PMN and provides a summary.

DATES: Written comments by: PMN 81–386—October 11, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS–51306]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–755–5687).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-386	June Thompson	(202-755-6660)	E-529E

Mail address of notice manager: Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA.

PMN 81–386

Close of Review Period. November 10, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyacrylate homopolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a manufacturing solution additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Density—>1.33.

Solubility in water—Insoluble.

CH_2Cl_2 Insoluble.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that dermal or inhalation exposure would occur only in the event of careless handling or failure to wear protective equipment or clothing.

Environmental Release/Disposal. The manufacturer states that all commercial product waste is incinerated. Additionally, users perform processing operations on the commercial product which result in removal of materials. These removed materials are presumably disposed of via publicly owned treatment works (POTW).

Dated: August 17, 1981.

Linda K. Smith,

Acting Director for Management Support Division.

[FR Doc. 81-26693 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-53027; TSH-FRL-1917-6]

Premanufacture Notices; Monthly Status Report for June 1981

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for June 1981.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460 (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1969. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances for which EPA has received a notice of commencement to manufacture. Therefore, EPA is publishing the June 1981 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-53027]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's, and other documents in public record may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: August 17, 1981.

Edward A. Klein,

Director, Chemical Control Division.

Premanufacture Notices Monthly Status Report, June 1981

PMN No.	Identity/generic name	FR citation	Expiration date
	I. Premanufacture notices received during the month		
81-261	Generic name: Amine derivative	46 FR 34409 (7/1/81)	Aug. 31, 1981.
81-262	Generic name: 2,5-Bis(alkyldithio)-1,3,4,-thiadiazole	46 FR 35347 (7/8/81)	Aug. 31, 1981.
81-263	Generic name: Polyurethane millable gum	46 FR 35347 (7/8/81)	Aug. 31, 1981.
81-264	Generic name: Pyridine derivative	46 FR 34409 (7/1/81)	Aug. 31, 1981.
81-265	Adipic acid, diethylenetriamine, tall oil fatty condensate, acetic acid salt	46 FR 34409 (7/1/81)	Aug. 31, 1981.
81-266	Generic name: Polymer of alkanedioic acid epoxy ester	46 FR 34409 (7/1/81)	Aug. 31, 1981.
81-267	Generic name: Urethane polymer	46 FR 34409 (7/1/81)	Sept. 2, 1981.
81-268	Polymer of 1,4-cyclohexanedimethanol; 1,6-hexanedioic acid, 1,9-nonanedioic acid; 1,4-butanediol; and 4,4-methylenebis (phenyl isocyanate).	46 FR 34409 (7/1/81)	Sept. 2, 1981.
81-269	Alcohols, C_{14}-C_{95}; tertiary butylether	46 FR 35347 (7/8/81)	Sept. 2, 1981.
81-270	Azacyclotridecan-2-one, homopolymer with (oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, copolymer.	46 FR 35347 (7/8/81)	Sept. 2, 1981.
81-271	Azacyclotridecan-2-one, polymer with hexahydro-2*H*-azepin-2-one, block copolymer with poly [oxy(methyl-1,2-ethanediyl)]; alpha-hydro-omega-hydroxy.	46 FR 35347 (7/8/81)	Sept. 2, 1981.
81-272	Generic name: Polyester resin	46 FR 34409 (7/1/81)	Sept. 2, 1981.
81-273	Poly[imino(1-oxo-1,6-hexanediyl)] with poly (oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy-,copolymer.	46 FR 35347 (7/8/81)	Sept. 2, 1981.
81-274	Poly[imino(1-oxo-1,6-hexanediyl)] with poly (oxy-methyl-1,2-ethanediyl), alpha-hydro-omega-hydroxy-,copolymer.	46 FR 35347 (7/8/81)	Sept. 2, 1981.
81-275	Generic name: Lower alkyl ester of an alkyl propionic acid	46 FR 35344 (7/8/81)	Sept. 2, 1981.
81-276	Generic name: Sulfur containing polyamide	46 FR 35344 (7/8/81)	Sept. 2, 1981.
81-277	1,2-Ethanediol; 2,5-furanedione; linseed fatty acids, and 1,1'-[(1-methylethylidene)bis (4,1-phenyleneoxy)] bis-2-propanol polymer.	46 FR 35344 (7/8/81)	Sept. 2, 1981.
81-278	Generic name: Compound from alkanoic acids, carbomonocyclic anhydride, and substituted alkanediols.	46 FR 36239 (7/14/81)	Sept. 2, 1981.
81-279	Generic name: Adduct of a substituted alkanol and a silicate	46 FR 36239 (7/14/81)	Sept. 2, 1981.

Premanufacture Notices Monthly Status Report, June 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
81-280	Generic name: Polyester polyurethane	46 FR 36239 (7/14/81)	Sept. 9, 1981.
81-281	Generic name: Polyester from substituted alkanediol and alkanoic acids	46 FR 36239 (7/14/81)	Sept. 9, 1981.
81-282	Generic name: Modified olefin/carboxylic acid copolymer	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-283	Generic name: Chromophore substituted poly (oxyethylene)	46 FR 35347 (7/8/81)	Sept. 9, 1981.
81-284	Generic name: Chromophore substituted poly (oxyalkylene)	46 FR 35347 (7/8/81)	Sept. 9, 1981.
81-285	Generic name: Amino carboxylic acid structural copolymer	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-286	Generic name: Waterborne polyurethane dispersion	46 FR 36239 (7/14/81)	Sept. 9, 1981.
81-287	Generic name: Nitrogen-modified, hydrogenated diene/styrene copolymer	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-288	Generic name: High solids mixed with phthalic monobasic acid alkyd resin	46 FR 35339 (7/8/81)	Sept. 10, 1981.
81-289	Generic name: Benzenediazonium, 4-(((substituted phenyl)amino)carbonyl)-sulfate (2:1)	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-290	Generic name: Aliphatic dicarboxylate	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-291	Generic name: Polyol, mixture of carboxylic acids polymer	46 FR 36239 (7/14/81)	Sept. 9, 1981.
81-292	Generic name: Silylated organic sulfonic acid, sodium salt	46 FR 35339 (7/8/81)	Sept. 9, 1981.
81-293	Generic name: Silylated organic sulfonic acid	46 FR 35339 (7/8/81)	Sept. 10, 1981.
81-294	Generic name: Mixture of varying molecular weight polyesters not defined	46 FR 36241 (7/14/81)	Sept. 10, 1981.
81-295	Generic name: Acrylonitrile polymer with alkenoic acid alkyl esters; 2-propenoic acid, 2-methyl	46 FR 36241 (7/14/81)	Sept. 10, 1981.
81-296	Generic name: Bis dihydrogenated ether of halogenated aryl sulfone	46 FR 36241 (7/14/81)	Sept. 9, 1981.
81-297	6-Hydroxy-2,3,7-trimethylquinoxaline	46 FR 36243 (7/14/81)	Sept. 15, 1981.
81-298	Generic name: Copolymer of styrene, alkyl acrylates, alkyl methacrylate, methacrylic acid with substituted acrylamide.	46 FR 36243 (7/14/81)	Sept. 15, 1981.
81-299	Generic name: Metal resinate	46 FR 36243 (7/14/81)	Sept. 15, 1981.
81-300	Generic name: Alkylated cyclohexane	46 FR 37084 (7/17/81)	Sept. 15, 1981.
81-301	Generic name: Substituted benzene sulfide sulfonic acid	46 FR 37084 (7/17/81)	Sept. 15, 1981.
81-302	Generic name: Substituted benzenesulfonamide	In preparation	Sept. 16, 1981.
81-304	Generic name: 4-Substituted amino-substituted-phenylazo-benzothiazole sulfonic acid salt	46 FR 37966 (7/23/81)	Sept. 16, 1981.
81-305	Generic name: 4-(Dialkylamino) styryldinitrile	In preparation	Sept. 16, 1981.
81-306	Generic name: Complex of 4,4'-dihydroxyphenyl sulfone and an alkylamine	46 FR 37966 (7/23/81)	Sept. 22, 1981.
81-307	Alkylphenol formaldehyde tackifying resin	In preparation	Sept. 22, 1981.
81-308	Generic name: Complex of mixture of 4,4'-dihydroxyphenyl sulfone and 2,4-dihydroxyphenyl sulfone and an alkylamine.	46 FR 37966 (7/23/81)	Sept. 16, 1981.
81-309	Generic name: Adduct of a substituted alkanediol and a silicate	46 FR 37966 (7/23/81)	Sept. 16, 1981.
81-310	Generic name: Modified phenolic novalak resin	46 FR 37966 (7/23/81)	Sept. 16, 1981.
81-311	Maleic acid, monooctooctylamide, diethanolamine salt	In preparation	Sept. 22, 1981.
81-312	Generic name: Alkenylated cyclohexane	46 FR 37966 (7/23/81)	Sept. 16, 1981.

II. Premanufacture notices received previously and still under review at the end of the month

81-153	Generic name: Substituted alkadienal	46 FR 24681 (5/1/81)	July 1, 1981.
81-154	Generic name: Alkyl epoxide, reaction products with organic acid	46 FR 24681 (5/1/81)	July 1, 1981.
81-155	Generic name: Urethane oligomer	46 FR 24681 (5/1/81)	July 1, 1981.
81-156	Generic name: Neutralized polymer of styrene, an alkeneoic acid, and an alkeneoic ester	46 FR 24681 (5/1/81)	July 1, 1981.
81-157	Vegetable oil fatty acid ester	46 FR 24988 (5/4/81)	July 5, 1981.
81-158	Generic name: Ethylene interpolymer	46 FR 24990 (5/4/81)	July 6, 1981.
81-159	Generic name: Ethylene interpolymer	46 FR 24990 (5/4/81)	July 6, 1981.
81-160	Generic name: Ethylene interpolymer	46 FR 25693 (5/8/81)	July 6, 1981.
81-161	Generic name: Polyacrylate	46 FR 24988 (5/4/81)	July 6, 1981.
81-162	Generic name: Hydroxy-alkoxy alkyl alkane	46 FR 24990 (5/4/81)	July 6, 1981.
81-163	Generic name: Acrylated alkoxylated aliphatic glycol	46 FR 25693 (5/8/81)	July 6, 1981.
81-164	Generic name: Allylglycidyl ether polyol resin	46 FR 25693 (5/8/81)	July 6, 1981.
81-165	Generic name: Siliconized alkyd resin	46 FR 24990 (5/4/81)	July 6, 1981.
81-166	2-Naphthalenesulfonyl chloride, 2-acetamino	46 FR 24990 (5/4/81)	July 6, 1981.
81-167	Ethanol,2-(6-acetaminonaphth-2-yl sulfonyl)	46 FR 24990 (5/4/81)	July 6, 1981.
81-168	*p*-Chlorophenol-resorcinol-formaldehyde polymer end blocked with carbanil	46 FR 24990 (5/4/81)	July 7, 1981.
81-169	Generic name: Copolymer of styrene and mixed alkyl acrylates	46 FR 25693 (5/8/81)	July 8, 1981.
81-170	Generic name: (Oxy-1,2-ethanediyl-alpha-acyl-omega-alkyl)	46 FR 25693 (5/8/81)	July 8, 1981.
81-171	1,3-Isobenzofurandione, polymer with 2,2-dimethyl-1, 3-propanediol, 1,2-ethanediol, 2-hydroxymethyl-1,3-propanediol, and tall oil acids.	46 FR 24988 (5/4/81)	July 8, 1981.
81-172	Generic name: Poly(amide-ester) resin X2-821	46 FR 25693 (5/8/81)	July 8, 1981.
81-173	Adipic acid, isophthalic acid, trimethylolpropane, 2,2,4-trimethyl-1,3-pentanediol, trimellitic anhydride polymer.	46 FR 24988 (5/4/81)	July 8, 1981.
81-174	Generic name: Disubstitutednaphthalenol	46 FR 24988 (5/4/81)	July 8, 1981.
81-175	Generic name: Disubstitutednaphthalenol	46 FR 24988 (5/4/81)	July 8, 1981.
81-176	Generic name: Disubstitutednaphthalenol	46 FR 28683 (5/15/81)	July 8, 1981.
81-177	Generic name: Chloroalkyl alkoxysilane	46 FR 25693 (5/8/81)	July 12, 1981.
81-178	Generic name: Chloroalkylchlorosilane	46 FR 25693 (5/8/81)	July 12, 1981.
81-179	Generic name: Derivatized fatty alcohols	46 FR 25693 (5/8/81)	July 12, 1981.
81-180	Generic name: Alkadiene	46 FR 27170 (5/18/81)	July 14, 1981.
81-181	Generic name: Polymer of alkene and diene	46 FR 27170 (5/18/81)	July 14, 1981.
81-182	Generic name: Alkadiene	46 FR 27170 (5/18/81)	July 14, 1981.
81-183	Generic name: Isocyanate modified polyester/polyether	46 FR 27170 (5/18/81)	July 14, 1981.
81-184	Generic name: Silicone polyol	46 FR 27170 (5/18/81)	July 14, 1981.
81-185	Generic name: Polymer of alkanediol, carbomonocylic anhydride, and substituted alkanoic ester	46 FR 27170 (5/18/81)	July 14, 1981.
81-186	Generic name: Polyester polyurethane	46 FR 27170 (5/18/81)	July 14, 1981.
81-187	Generic name: Cycloaliphatic polyester modified with a polyether glycol	46 FR 28004 (5/22/81)	July 14, 1981.
81-188	Hexahydropyrimidine-1,3-diacetonitrile	46 FR 28505 (5/27/81)	July 14, 1981.
81-189	Generic name: Unsaturated polyester	46 FR 28004 (5/22/81)	July 21, 1981.
81-190	Generic name: Unsaturated polyester resin	46 FR 28505 (5/27/81)	July 21, 1981.
81-191	Acrylic acid, bisphenol A-epichlorohydrin resin, ethyl acrylate, methyl methacrylate, polyvinyl butyral resin, styrene polymer.	46 FR 28004 (5/22/81)	July 16, 1981.
81-192	Generic name: Trisubstituted silylalkanolacetate	46 FR 28505 (5/27/81)	July 21, 1981.
81-193	Generic name: Poly(oxyalkyldisubstituted silane) aroyl, alkoxy terminated	46 FR 28505 (5/27/81)	July 21, 1981.
81-194	Generic name: Oligomers from 1,6-dimethylnaphtyl sulfonic acid, sodium salt, and formaldehyde	46 FR 28503 (5/27/81)	July 21, 1981.
81-195	2,4,6-Tributylphenol, ethoxylated, acetate	46 FR 28503 (5/27/81)	July 21, 1981.
81-196	Polymer from propylene oxide and ethylene oxide acetylated	46 FR 28503 (5/27/81)	July 21, 1981.
81-197	Monylphenol, ethoxylated, acetate	46 FR 28503 (5/27/81)	July 21, 1981.
81-198	Polymer of: *N*-vinyl-*N*-methylacetamide and maleic acid, diisooctyl ester	46 FR 28503 (5/27/81)	July 21, 1981.
81-199	Polymer of: Vinyl acetate, butyl acetate, neodecanoic acid, vinyl ester, and vinyl sulfonic acid, sodium salt.	46 FR 28503 (5/27/81)	July 21, 1981.
81-200	Generic name: Trisubstituted benzene	46 FR 28004 (5/22/81)	July 23, 1981.
81-201	Generic name: Polymer of substituted acrylic acid derivative and substituted styrene	46 FR 28004 (5/22/81)	July 23, 1981.

Premanufacture Notices Monthly Status Report, June 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
81-202	Generic name: Polyether alkenyl alkanyl esters	46 FR 29524 (6/2/81)	July 26, 1981.
81-203	Generic name: Substituted alkyl cyanoacrylate	46 FR 29524 (6/2/81)	July 26, 1981.
81-204	Generic name: Aliphatic alcohol	46 FR 29524 (6/2/81)	July 28, 1981.
81-205	Generic name: Aliphatic alcohol ester	46 FR 29524 (6/2/81)	July 28, 1981.
81-206	Generic name: Substituted thiol salt	46 FR 29527 (6/2/81)	July 26, 1981.
81-207	Generic name: Halogenated alkylated titanium mixed aluminum magnesium oxides	46 FR 29524 (6/2/81)	July 28, 1981.
81-208	Generic name: Alkenyltri (substituted alkoxy) silane	46 FR 29524 (6/2/81)	July 28, 1981.
81-209	Generic name: Polymer of: Adipic acid, isophthalic acid, trimethylol propane, neopentyl glycol, and silicone.	46 FR 29524 (6/2/81)	July 28, 1981.
81-210	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-211	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-212	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-213	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-214	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 26, 1981.
81-215	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-216	Generic name: Aromatic disazo dye	46 FR 29527 (6/2/81)	July 28, 1981.
81-217	Generic name: Amide functional silane	46 FR 29524 (6/2/81)	July 29, 1981.
81-218	Adipic acid-dipropylene glycol-linseed oil fatty acid-trimethylol propane polymer	46 FR 29524 (6/2/81)	Aug. 3, 1981.
81-219	*N*-[2-(4-Aminophenyl)ethyl] methanesulfonamide	46 FR 30884 (6/11/81)	Aug. 3, 1981.
81-220	Generic name: Trisubstituted-benzisoquinoline	46 FR 30884 (6/11/81)	Aug. 3, 1981.
81-221	Generic name: Disubstituted-heteropolycyclic salt	46 FR 30884 (6/11/81)	Aug. 3, 1981.
81-222	Generic name: Oligomer of, alkanedioic acid, dimer fatty acids, substituted and unsubstituted alkanediols, and benzene dicarboxylic acids.	46 FR 31345 (6/15/81)	Aug. 6, 1981.
81-223	Butanenitrile, 3-hydroxy-2—methylene	46 FR 31939 (6/18/81)	Aug. 6, 1981.
81-224	Generic name: Neutralized polymer of styrene, alkyl acrylates, and substituted alkyl methacrylates	46 FR 31345 (6/15/81)	Aug. 6, 1981.
81-225	Polymer of acrylic acid, butyl acrylate, glycidyl methacrylate, 2-hydroxyethyl acrylic, and vinylidene chloride.	46 FR 31939 (6/18/81)	Aug. 6, 1981.
81-226	Polymer of acrylic acid, acrylonitrile, butylacrylate, 2-hydroxyethel acrylate, and vinylidene chloride	46 FR 31939 (6/18/81)	Aug. 6, 1981.
81-227	1,1,2,2-Tetrahydroperfluoro alkyl (C_n-C_{14}) acrylate	46 FR 31939 (6/18/81)	Aug. 6, 1981.
81-228[1]	Ethylthiosulfuric acid, 2-[[1,1,2,2-tetrahydroperfluorooctyl)oxycarbonyl]amino-, sodium salt	46 FR 31939 (6/18/81)	Aug. 6, 1981.
81-229	Generic name: Polymer of aliphatic polyols, carbomonocyclic anhydrides, and aromatic diacid	46 FR 31345 (6/15/81)	Aug. 9, 1981.
81-230	Generic name: Polyester of aliphatic polyols and aliphatic and aromatic diacids	46 FR 31345 (6/15/81)	Aug. 9, 1981.
81-231	Generic name: [[2-methylsubstituted)ethyl]substituted]heterocyclic]benzene	46 FR 30884 (6/11/81)	Aug. 10, 1981.
81-232	Generic name: Substitutedalkanoic acid derivative	46 FR 30884 (6/11/81)	Aug. 10, 1981.
81-233	Generic name: Substitutedalkanoic acid	46 FR 30884 (6/11/81)	Aug. 10, 1981.
81-234	Generic name: Disubstitutedalkanamide	46 FR 30884 (6/11/81)	Aug. 10, 1981.
81-235	Generic name: Disubstitutedalkanamide	46 FR 30884 (6/11/81)	Aug. 10, 1981.
81-236	Generic name: Organohalo modified silica	46 FR 32494 (6/23/81)	Aug. 11, 1981.
81-237	Generic name: Silicon modified unsaturated oil based alkyd resin	46 FR 31345 (6/15/81)	Aug. 11, 1981.
81-238	Generic name: Polyhalo alkanoic acid chloride	46 FR 31345 (6/15/81)	Aug. 11, 1981.
81-239	Generic name: Carboxylated arylalkane alkadiene copolymer	46 FR 32494 (6/23/81)	Aug. 11, 1981.
81-240	*N,N'-Bis(2-ethylhexyloxycarbonylphenyl)formamidene*	46 FR 31941 (6/18/81)	Aug. 11, 1981.
81-241	Generic name: Polymer of phenol, formaldehyde, and substituted benzene	46 FR 32494 (6/23/81)	Aug. 12, 1981.
81-242	Sodium 2,2,3,3-tetrafluoropropionate	46 FR 31941 (6/18/81)	Aug. 16, 1981.
81-244	Generic name: Ester of dioic acid and substituted diols	46 FR 31941 (6/18/81)	Aug. 16, 1981.
81-245	Generic name: Carbocyclic sulfonic acid salt	46 FR 31941 (6/18/81)	Aug. 16, 1981.
81-246	Generic name: Hydroxyl terminated saturated polyester	46 FR 31941 (6/18/81)	Aug. 16, 1981.
81-247	Generic name: Polyurethane acrylate blocked	46 FR 31941 (6/18/81)	Aug. 17, 1981.
81-248	Generic name: Poly(methyl vinyl ether/mono methyl maleate)	46 FR 31941 (6/18/81)	Aug. 17, 1981.
81-249	Generic name: Pentasubstitutedpentanamide	46 FR 32494 (6/23/81)	Aug. 17, 1981.
81-250	Generic name: Disubstitutedbenzeneamine	46 FR 32494 (6/23/81)	Aug. 17, 1981.
81-251	2-Cholor-4-trifluoromethyl-5-thiazolecarboxylic acid, phenylmethyl ester	46 FR 35345 (7/8/81)	Aug. 20, 1981.
81-252	Generic name: Disubstituted thiazolecarboxylic acid ester	46 FR 35345 (7/8/81)	Aug. 20, 1981.
81-253	*N*-2-(4-hydrozinophenyl)ethyl]-methasulfonamide hydrochloride	46 FR 35342 (7/8/81)	Aug. 20, 1981.
81-254	Generic name: Polymer product of a methacrylate ester and a polyhydroxy compound	46 FR 35342 (7/8/81)	Aug. 24, 1981.
81-255[1]	Generic name: Di(2-propenyl)3,4,5,6-tetrabromo-1,2-benzene-dicarboxylate	46 FR 35345 (7/8/81)	Aug. 25, 1981.
81-256	Generic name: Poly(2-hydroxypropyl)monoheterocyclictriamine	46 FR 35345 (7/8/81)	Aug. 27, 1981.
81-257	Generic name: Silicone polyol	46 FR 35342 (7/8/81)	Aug. 27, 1981.
81-258	Generic name: Linseed-isophthalic polyester/amide	46 FR 35342 (7/8/81)	Aug. 27, 1981.
81-259	Generic name: Linseed isophthalic-hydroxy acid polyester	46 FR 35342 (7/8/81)	Aug. 27, 1981.
81-260	Generic name: Trimethyloipropane neopentylglycol phthalic anhydride siloxanes and silicones, di-me, methoxy ph, polymers with ph silsesquioxanes, methoxy-terminated.	46 FR 35342 (7/8/81)	Aug. 27, 1981.

III. Premanufacture notices for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical had been added to the Inventory)

81-101	Generic name: Polyester-amide	46 FR 22645 (4/20/81)	June 1, 1981.
81-102	Generic name: Urethane polymer from polyester polyol and diisocyanate	46 FR 20767 (4/7/81)	June 1, 1981.
81-103	Generic name: Alkylamine methacrylic copolymer	46 FR 22645 (4/20/81)	June 3, 1981.
81-104	Generic name: Ammonium slats of substituted alkyl phosphoric acid	46 FR 20767 (4/7/81)	June 3, 1981.
81-105	Generic name: Alkoxylated alkylphenol substituted sulfosuccinate, isopropylamine salt	46 FR 20767 (4/7/81)	June 3, 1981.
81-106	Generic name: Modified polymer of carbomono-cyclic anhydride, glycerine oil, substituted alkanediol, and an alkanoic ester.	46 FR 20767 (4/7/81)	June 3, 1981.
81-107	Generic name: Modified water-borne, linseed fatty acid based alkyd	46 FR 20767 (4/7/81)	June 3, 1981.
81-108	Generic name: Modified soya alkyd	46 FR 20767 (4/7/81)	June 3, 1981.
81-109	Generic name: modified alkyd from a substituted alkanediol, a substituted alkanoic acid, and a carbomonocyclic anhydride.	46 FR 20767 (4/7/81)	June 3, 1981.
81-110[1]	Acetamide, *N*-(2-[(2-chloro-4,6-dinitrophenyl)-azo)-5-(diethylamino)-4-(2-methoxy) ethoxyphenyl)	46 FR 22645 (4/20/81)	June 3, 1981.
81-111	4-[[4-chloro-6-[[8-hydroxy-3,6-disulfo-7-[(2-sulfophenyl)azo]-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]benzenesulfonic acid, tetrasodium salt.	46 FR 20765 (4/7/81)	June 3, 1981.
81-112	Butanamide,-2-[(4-(4-aminocarbononylphenyl)-aminocarbonylphenyl)azo)-*N*-(2,3,-dihydro-2-oxo-1*H*-benzimidazole-5-yl)-3-oxo.	46 FR 22645 (4/20/81)	June 3, 1981.
81-113	Generic name: Polymer of: Styrene, butyl acrylate, hydroxy ethyl acrylate, dimethylamine propyl methacrylamide.	46 FR 20765 (4/7/81)	June 3, 1981.
80-358[1]	Benzoic acid, 2-[[2-amino-5-hydroxy-6-[[4'-[[1-hydroxy-8-[[(4-methylphenyl)sulfonyl]amino-3,6-disulfo-2-napthalenyl]azo-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-7-sulfo-1-napthalenyl]azo]-5-nitro-, trisodium salt.	46 FR 20770 (4/7/81)	June 3, 1981.

Premanufacture Notices Monthly Status Report, June 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
81-357 [1]	Benzoic acid, 2-[[4-amino-6-[[4'-[[5-[[2,5-disulfophenyl)-azo]-1-hydroxy-6-(phenylamino)-3-sulfo-2-naphthalenyl]azo-3,3'-dimethoxy[1,1'-biphenyl]-4-yl-azo]-5-hydroxy-7-sulfo-1-naphthalenylazo-5-nitro-, tetrasodium salt.	46 FR 20770 (4/7/81)	June 3, 1981.
81-114	Generic name: Modified epoxy resin	46 FR 20765 (4/7/81)	June 4, 1981.
81-115	1,4-Cyclohexanedimethanol, 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 1,3-benzene dicarboxylic acid polymer.	46 FR 20765 (4/7/81)	June 4, 1981.
81-116	Generic name: Substituted hydroxy ether of an alkanoic acid ester	46 FR 22260 (4/16/81)	June 7, 1981.
81-117	Generic name: (Substituted cycloaliphatic ether) hydroxy alkyl ester	46 FR 22260 (4/16/81)	June 7, 1981.
81-118	Generic name: Polyurethane polyisocyanate	46 FR 22260 (4/16/81)	June 7, 1981.
81-119	Generic name: Alkyl aluminum halide	46 FR 22260 (4/16/81)	June 7, 1981.
81-120	Generic name: Alkyl aluminum halide	46 FR 22260 (4/16/81)	June 7, 1981.
81-121	Generic name: Polyacrylocarbamoyl alkyl silane	46 FR 22646 (4/20/81)	June 7, 1981.
81-122	Generic name: Isocyanatodisilane substituted polyester	46 FR 22646 (4/20/81)	June 7, 1981.
81-123	Fatty acids, C_{18}-unsaturated dimers, light fractions reacted with 1,3-butanediol ethoxylate	46 FR 22646	June 7, 1981.
81-124 [1]	Generic name: Substituted anisole	46 FR 22643 (4/20/81)	June 9, 1981.
81-125	Generic name: Benzophenol tetracarboxylic dianhydride polyimide	46 FR 22646 (4/20/81)	June 8, 1981.
81-126	Safflower oil, polymers with benzoic acid bisphenol A, epichlorohydrin	46 FR 22643 (4/20/81)	June 14, 1981.
81-127	Safflower oil, polymers with benzoic acid, bisphenol A, epichlorohydrin	46 FR 22646 (4/20/81)	June 14, 1981.
81-128	Generic name: Unsaturated alicyclic ether	46 FR 22648 (4/20/81)	June 14, 1981.
81-129	Polymer of: Styrene, isobutyl acrylate, hydroxy ethyl acrylate, acrylic acid, terbutyl perbenzoate, dimethyl ethanol amine.	46 FR 22648 (4/20/81)	June 14, 1981.
81-130	Generic name: Unsaturated alicylic alcohol	46 FR 22648 (4/20/81)	June 14, 1981.
81-131	Generic name: Allylglycidyl ether polyol resin	46 FR 23796 (4/20/81)	June 15, 1981.
81-132	Generic name: Maleic anhydride-based unsaturated polyester resin modified with mixed phthalic acid.	46 FR 22648 (4/20/81)	June 15, 1981.
81-133	Generic name: Unsaturated carboxylic amide	46 FR 23796 (4/28/81)	June 15, 1981.
81-134	Generic name: Unsaturated carboxylic amidecarboxylic acid	46 FR 23796 (4/28/81)	June 15, 1981.
81-135	Generic name: Acrylic polymer	46 FR 23796 (4/28/81)	June 15, 1981.
81-136	Generic name: Water-borne, linseed acid based modified alkyd	46 FR 22648 (4/20/81)	June 16, 1981.
81-137	Generic name: Polymer of a substituted polypropylene oxide and a substituted cyclic alkanediol	46 FR 22648 (4/20/81)	June 16, 1981.
81-138	Generic name: Acrylate-nitrogen hereocycle copolymer	46 FR 24683 (5/1/81)	June 21, 1981.
81-139	Polymer of carbomonocyclic acids, carbomonocyclic anhydride and modified vegetable oil	46 FR 24683 (5/1/81)	June 21, 1981.
81-140	Polymer of an alkanediol, aliphatic dicarboxylic acid, and an aromatic dicarboxylic acid	46 FR 24683 (5/1/81)	June 21, 1981.
81-141	4,*N*,*N*-Diethylaminobenzene diazonium sulfonate salt	46 FR 23796 (4/28/81)	June 23, 1981.
81-142	4-(4-Morpholinyl)-2,5-dibutoxybenzene diazonium sulfonate salt	46 FR 23796 (4/28/81)	June 23, 1981.
81-144	4-(1-Pyrolidinyl)-3-methyl benzene diazonium sulfonate salt	46 FR 23796 (4/28/81)	June 23, 1981.
81-145	4-*N*,*N*-Dimethylaminobenzene diazonium sulfonate salt	46 FR 23796 (4/28/81)	June 23, 1981.
81-146	Organic amine salts of dihydrogen phosphate esters of mixed alcohol ranging from C_{14} to C_{18}	46 FR 24683 (5/1/81)	June 23, 1981.
81-147	Poly(oxy-1,4-butanediyl)alpha-hydro-omega-hydroxy, polymer with 1,1-methylene bis (4-isocyanatobenzene) and 2-hydroxyethyl-2-methyl-2-propenoate.	46 FR 24683 (5/1/81)	June 24, 1981.
81-148	Generic name: Carboxylic sulfonic acid salt	46 FR 24900 (5/4/81)	June 25, 1981.
81-149	Generic name: Styrene acrylic polymer	46 FR 24990 (5/4/81)	June 25, 1981.
81-150	Polyol reaction product with methylene bis (cyclohexyl isocyanate)-hydroxy propyl acrylate blocked	46 FR 24681 (5/1/81)	June 25, 1981.
81-151	Copolymer of styrene and mixed alkyl acrylate	46 FR 24990 (5/4/81)	June 28, 1981.
81-152	Generic name: Poly(ester)-Co-poly(hydantoin polyester)	46 FR 24681 (5/1/81)	June 30, 1981.

PMN No.	Submitter	Chemical identification	FR citation
		IV. Chemical substances for which EPA has received notice of commencement to manufacture	
80-70	Confidential	Generic name: Sulfonic acid salt of ureylenebis (hydroxy-sulfo-napthyl) azo]naphthalene.	45 FR 49667 (7/25/80).
80-81	Confidential	Generic name: Methylphenyl substituted heteromonocyclic salt	45 FR 30130 (5/7/80).
80-195	Uniroyal Chemical	Substituted alkyl oxamide	45 FR 58194 (9/20/81).
80-228	Uniroyal	Benzene propanoic acid 3,5-bis (1,1-dimethylethyl)-4-hydroxy-(1,2-dicxo-1,2-ethanediyl)bis(1-mino-2,1-ethanedyl)ester.	45 FR 62194 (9/18/80).
80-240	Dupont	Generic name: Ethene-alkene-vinyl carbonyl amine polymer	45 FR 65030 (10/1/80).
80-270	Inmont Corp	Polymer of glycidyl methacrylate, hydroxy propyl methacrylate 12-hydroxystearic acid, methacrylic acid methyl methacrylate.	45 FR 74558 (11/10/80)
80-291	Confidential	Polymer of: Epoxy resin bisphenol A, paraformaldehyde, dibutylamine, diethanolamine.	45 FR79150 (11/28/81)
80-294	Dow Chemical	Generic name: Oil free polyester	45 FR 79157 (11/28/81).
80-302	Confidential	Generic name: Modified polyester based on carbomonocylic anhydride and alkanediols.	45 FR 80354 (12/4/81).
80-310	DuPont	Butanenitrile, 2-methyl, 2,2'-azobis	45 FR 80350 (12/4/80).
80-311	Confidential	Butanenitrile, 2-amino, 2-methyl	45 FR 81876 (12/12/80).
80-330	Confidential	Generic name: Amino alcohol	46 FR 3963 (1/16/81).
80-344	Confidential	Generic name: Metal resinate	46 FR 8710 (1/27/81).
80-374	Confidential	Generic name: 4-(trifluoromethyl)-2-chloro-1-(3-substituted phenoxy) benzene derivative.	46 FR 12309 (2/13/81).
80-382	Confidential	Generic name: Adipic acid, 1,2-propanediol, monocarboxylic acid polyester	46 FR 12305 (2/13/81).
81-3	Confidential	Methyl, bis(hydroxy propyl)tallowalkyl ammonium methyl sulfate	46 FR 11349 (2/6/81).
81-12	Kendall Co	Acrylate copolymer adhesive	46 FR 12104 (2/12/81).
81-18	Kendall Co	Generic name: Maleic half ester of ethoxylated aliphatic alcohol emulsifier	46 FR 12104 (2/12/81).
81-22	Confidential	1,3-bis(4-hydroxybutyl)-1,3-didecyldimethyl-disioxane	46 FR 16118 (3/11/81).
81-31	DuPont	Generic name: Polyurethane polyacrylic block polymer	46 FR 14952 (3/3/81).
81-41	Ilford Inc	5-methyl-4*H*-1,2,4-triazole-3-selanol, 2-dihydro-5-methyl-3*H*-1,2,4-triazole-3-selone.	46 FR 16123 (3/11/81).
81-45	DuPont	Polyester (1,4-butane diol/isophthalic acid, dimethyl esterpoly(oxy thylene/oxy propylene)/terephthalic acid, dimethyl ester.	46 FR 16125 (3/11/81).
81-57	American Hoechst Corporation	Acetamide, *N*-[4-((2-hydroxy-ethyl) sulfonyl)-2-methoxy-5-methylphenyl]	46 FR 16931 (3/16/81).
81-83	Confidential	Generic name: Copolyester of dibasic aliphatic and substituted dibasic aromatic carboxylic acids with glycols.	46 FR 19307 (3/30/81).
81-96	Confidential	Generic name: Oxidized soy kolate	46 FR 19303 (3/30/81).
81-97	Confidential	Generic name: Bis(substituted carbomonocyclic substituted carbopolycycle	46 FR 19303 (3/30/81).
81-98	Andrews Paper Chemical	Generic name: 4-diazo-2,5-diethoxymorpholine phenyl sulfonate salt	46 FR 20763 (4/7/81).

PMN No.	Submitter	Chemical identification	FR citation
81-99	Sandoz Colors & Chemicals	Generic name: Diazo dye	46 FR 20783 (4/7/81).
81-147	Confidential	Poly(oxy-1,4-butanediyl)alpha-hydro-omega-hydroxy, polymer with 1,1-methylene bis(4-isocyanatobenzene) and 2-hydroxyethyl-2-methly-2-propenoate.	46 FR 24683 (5/1/81).

PMN No.	Identity/generic name	FR citation	Date suspended
	V. Premanufacture notices for which the review period has been suspended		
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-146	Phosphorodithioic acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-152	Generic name: Alkanedioic acids mixed alkanolamine salt	45 FR 54425 (8/15/80)	Oct. 30, 1980.
80-238	Glycerine, 1-alkanoate, 3-substituted alkanoate	45 FR 65662 (10/3/80)	Nov. 7, 1980.
80-264	Generic name: Benzeneamine, [*N*-(1-methyl hexylidene)-N-(1-methyl butylidene)-4,4'-methylene bis].	45 FR 73127 (11/4/80)	Dec. 24, 1980.

[1] PMN review period has been suspended.

[FR Doc. 81-24602 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-31-M

[A-10-FRL-1917-8]

Termination of the State of Idaho's Federal Air Grant Funding

AGENCY: Environmental Protection Agency (EPA).

ACTION: Termination of Federal Air Grant Funding.

SUMMARY: EPA is giving notice of its intention to withdraw certain Section 105 air program grants funds from the State of Idaho's Department of Health and Welfare beginning July 1, 1981.

DATE: August 25, 1981.

ADDRESSES: The relevant material may be examined during normal business hours at the following locations:

Central Docket Section (10A-80-2), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 625, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard R. Thiel, Environmental Protection Agency, Chief, Air Programs Branch, 1200 Sixth Avenue, M/S 629, Seattle, Washington 98101, Telephone: (206) 442-1230, FTS 399-1230.

SUPPLMENTAL INFORMATION: During this year's legislative session, the State of Idaho's funding for the Idaho Department of Health Welfare (IDHW) air program was eliminated beginning July 1, 1981. EPA had been notified by the State that its air program activities will be terminated by July 1, 1981. Therefore, since the IDHW will have no non-Federal funding to support its air pollution control program beyond June 30, 1981, EPA is required by Section 105 of the Clean Air Act to reduce IDHW's air grant award.

On June 1, 1981, EPA published in the **Federal Register** (46 FR 29329) a request for public comment on the intent to withdraw the air program grant and also provided an opportunity to request a public hearing. The same notification also appeared in the public notice section of the *Idaho Statesman* on June 1, 1981. No comments were received during the 30-day comment period. Therefore, EPA is taking the following action:

1. Withdraw unexpended or remaining federal funds authorized by Section 105 not required for the State to complete its program. The unexpended funds being withdrawn amount to $201,817, however some adjustment to this amount may be made after final close-out audit is completed. Idaho is required by law to expend to least as much in State funding in Federal Fiscal Year (FY) 1981 as was spent in FY 1980, $279,525, to be eligible for any Federal Section 105 funds. Since the Idaho program will be terminated in June of 1981, three quarters of the way through FY 81, this requirement will be satisfied if Idaho expends at least $209,644 (¾ × $279,525) in non-Federal (State) funds.

2. Terminate the Section 105 grant to the State of Idaho 1981 since the State will not provide the non-Federal matching funds required to be eligible for a Section 105 grant after that date.

Dated: August 14, 1981.

John R. Spencer,

Regional Administrator.

[FR Doc. 81-24694 Filed 8-24-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-130]

City Federal Savings and Loan Association; Final Action Approval of Conversion Applications

Notice is hereby given that on August 12, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 81-456 approved the application of City Federal Savings and Loan Association, Oakland, California ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

Dated: August 20, 1981.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-24761 Filed 8-24-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-129]

First Mutual Savings Association of Florida; Final Action Approval of Conversion Applications

Notice is hereby given that on August 12, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 81-455 approved the application of First Mutual Savings and Loan Association of Florida, Pensacola, Florida ("Association"), for permission

to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, N.W. Atlanta, Georgia 30343.

Dated: August 20, 1981.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-24763 Filed 8-24-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-132]

First Savings Association of Wisconsin; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

Notice is hereby given that on August 19, 1981, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), by Resolution No. 81-471 approved an amendment to the application of First Savings Association of Wisconsin, Milwaukee, Wisconsin ("Association") amending the plan of conversion and providing that the aggregate price of the stock to be sold in the conversion of the Association shall be not less than $12,750,000 nor more than $17,250,000. The conversion application of the Association was approved on March 18, 1981, by Board Resolution 81-150 which Resolution required that the conversion stock be sold for an aggregate price within a range from $21,675,000 to $29,325,000. Copies of the application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

Dated: August 20, 1981.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-24764 Filed 8-24-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-131]

United Federal Savings and Loan Association; Final Action Approval of Conversion Applications

Notice is hereby given that on August 12, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 81-458 approved the application of United Federal Savings and Loan Association, Sarasota, Florida ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

Dated: August 20, 1981.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-24762 Filed 8-24-81; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely elated to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 18, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Bankers Trust New York Corporation, New York, New York (investment adviser activities; Florida): To enage, through a subsidiary known as Bt Investment Managers, Inc., in the following activities: acting as investment or financial adviser to the extent of: (i) Providing portfolio investment advice, financial/management, and security analysis; and (ii) furnishing general economic information and advice, general economic statistical forecastiing services and industry studies. Such activities will be conducted at offices located at 250 Royal Palm Way, Palm Beach, Florida. The geographic area to be served is primarily Palm Beach County, but also includes the entire State of Florida. Comments on this application must be received not later than September 11, 1981.

2. Bankers Trust New York Corporation, New York, New York (trust company activities; Florida): To engage, through its subsidiary Bankers Trust Company of Florida, in the following activities: To perform any one or more of the functions or activities that may be performed by a trust company (including activities of a fiduciary, investment advisory, agency or custodian nature) in the manner authorized by Federal or State Law. Such activities will be conducted at offices in Palm Beach, Florida. The primary geographic area to be served is within Palm Beach County; other locations in the State of Florida will also be served from this office.

3. Citicorp, New York, New York (loan servicing; entire United States): To engage *de novo*, indirectly through Citicorp Person-to-Person, Inc., and its respective subsidiaries in the servicing, for any person, of loans and other extensions of credit, without regard to whether the receivables being serviced were originated or owned by Citicorp affiliated or non-affiliated entities. The aforementioned subsidiaries operate offices in one or more of the following states, Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Texas, Utah, Virginia, Washington and Wyoming. These

activities would be conducted throughout the entire United States.

4. Manufacturers Hanover Corporation, New York, New York (lending and insurance activities; Kansas) To continue to hold the shares of Termplan Incorporated of Kansas ("Termplan") after Termplan relocates an office located at Prairie Village, Kansas, to Overland Park, Kansas and expands the service area of the office. The application does not involve the commencement of any new activities at the new location. The present activities of Termplan are consumer lending and the sale, as agent, of single and joint credit life, accident and health insurance, and credit related property and casualty insurance. Termplan also engages in home equity lending and sales finance lending and the sale, as agent, of single and joint credit life insurance related to those loans. The new office will serve customers in southeastern Atchison, Jefferson, Leavenworth, eastern Shawnee, northeastern Osage, Douglas, Franklin, northeastern Anderson, Johnson, Miami, Wyandotte, and north Linn Counties.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Jefferson Bancshares, Inc., Metairie, Louisiana (leasing activities, Louisiana): To engage through its subsidiary, Jefferson Leasing, Inc., Metairie, Louisiana, in making leases of personal property and acting as agent, broker, or adviser in leasing such property. These activities would be conducted from offices at 3525 N. Causeway Boulevard, Metairie, Louisiana 70002, serving Jefferson Parish, Louisiana.

2. Southwest Florida Banks, Inc., Fort Myers, Florida (insurance activities; Florida): To engage through a subsidiary know as Southwest Financial Services, Inc. in the following activities: Providing, as agent in connection with extensions of credit by Applicant's banking subsidiaries, credit life and accident and health insurance directly related to such extensions of credit. Such activities will be conducted at offices located at 10101 Bloomingdale Avenue, Riverview, Florida 33569, serving Hillsborough County, Florida.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Merchants National Corporation, Indianapolis, Indiana (loan production activity; North Central United States): To engage through its subsidiary, Merchants Mortgage Corporation, in oprating a loan production office in Fort Wayne, Indiana, including acceptance of mortgage loan applications and closing of loans. This activity will be conducted from an office at 2200 Lake Avenue, Suite 120, Fort Wayne, Indiana, serving Allen and contiguous counties of Grant, Steuben, Whitley, Noble, Dekalb, Huntington, Wells and Adams, all within a 50-mile radius of such office.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 19, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-24686 Filed 8-24-81; 8:45 am]

BILLING CODE 6210-01-M

Commercial Bancorporation of Colorado; Acquisition of Bank

Commercial Bancorporation of Colorado, Denver, Colorado, 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 of the voting shares of Century Bank Southeast, N.A., Englewood, Colorado, a proposed new bank. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 16, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying 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, August 17, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-24790 Filed 8-24-81; 8:45 am]

BILLING CODE 6210-01-M

Firstcom Bancorp, Inc.; Formation of Bank Holding Company

Firstcom Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of The First Commercial Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 16, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 17, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-24787 Filed 8-24-81; 8:45 am]

BILLING CODE 6210-01-M

Metro Shares, Inc.; Formation of Bank Holding Company

Metro Shares, Inc., Metairie, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 per cent of the voting shares of First Metropolitan Bank, Metairie, Louisiana. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 16, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 17, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-24786 Filed 8-24-81; 8:45 am]

BILLING CODE 6210-01-M

Rio Grande Bancshares, Inc.; Formation of Bank Holding Company

Rio Grande Bancshares, Inc., Las Cruces, New Mexico, has applied for the

Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Dona Ana County, Las Cruces, New Mexico. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 19, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-24665 Filed 8-24-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

General Powers and Duties Under Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of January 14, 1981 (46 FR 10016), by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, with authority to redelegate, the following authorities delegated to the Assistant Secretary for Health under Title III of the Public Health Service Act (42 U.S.C. 241 *et seq.*) as amended, concerning General Powers and Duties pertaining to the functional responsibilities of the Centers for Disease Control:

Section 301—Research and Investigation—General, as it pertains to the functions assigned to CDC.

Section 304—General Authority Respecting Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology, as it pertains to the functions assigned to CDC.

Section 307—International Cooperation, as it pertains to the functions assigned to CDC.

Section 308—General Provisions Respecting Sections 304 and 307, as it pertains to the functions assigned to CDC.

Section 310—Health Conferences and Health Education Information, as it pertains to the functions assigned to CDC.

Section 311—Federal-State Cooperation—General, as it pertains to the functions assigned to CDC.

Section 314(d)—Comprehensive Public Health Services.

Section 315—Formula Grants to States for Preventive Health Service Programs.

Section 316—Lead-Based Paint Poisoning Prevention Programs.

Section 317—Project Grants for Preventive Health Services (except section 317(a)(1) as it relates to grants for hypertension insofar as the authority applies to the functional responsibility assigned to the Health Services Administration).

Section 318—Projects and Programs for the Prevention and Control of Venereal Disease.

Section 322(e)—Care and Treatment of Seamen and Certain Other Persons, as it pertains to the functions assigned to CDC.

Section 325—Examination of Aliens, as it pertains to the functions assigned to CDC.

Section 326—Services to Coast Guard, Coast and Geodetic Survey, and Public Health Service, as it pertains to the functions assigned to CDC.

Section 327—Interdepartmental Work, as it pertains to the functions assigned to CDC.

Section 327A—Sharing of Medical Care Facilities and Resources, as it pertains to the functions assigned to CDC.

Section 352—Preparation of Biological Products, as it pertains to the functions assigned to CDC.

Section 353—Clincial Laboratories, as it pertains to the functions assigned to CDC.

Section 361-369—Quarantine and Inspection, as they pertain to the functions assigned to CDC.

The following delegations by the Assistant Secretary for Health to the Director, Centers for Disease Control, have been superseded:

July 1, 1973 (38 FR 18260-18262), insofar as it pertains to the authorities herein delegated.

May 24, 1976 (41 FR 22117), insofar as it pertains to the authorities under section 317 relating to communicabla and other disease control programs.

July 24, 1979 (44 FR 45759), insofar as it pertains to the authorities under section 301 relating to functions assigned to CDC.

September 18, 1979 (44 FR 57494), insofar as it pertains to the authorities under section 317 relating to fluoridation.

All other delegations to the Director, Centers for Disease Control, of authority under Title III of the Public Health Service have also been superseded.

Provision has been made for previous delegations and redelegations made to other officials within the Centers for Disease Control to continue in effect for no longer than 90 days from the effective date of the delegation to the Director, Centers for Disease Control, provided they are consistent with the delegation to the Director, Centers for Disease Control.

The Assistant Secretary for Health has made provision for the ratification of actions taken on behalf of the Public Health Service under section 318 of the Public Health Service Act, as amended.

The delegation to the Director, Centers for Disease Control, became effective on August 4, 1981.

Dated: August 4, 1981.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 81-24664 Filed 8-24-81; 8:45 am]

BILLING CODE 4110-86-M

National Health Planning and Development; Administrator, Health Services Administration; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of November 20, 1980 (45 FR 1032) by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Administrator, Health Services Administration, without the authority to redelegate, the following authorities delegated to the Assistant Secretary for Health under Title XV of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as amended, concerning National Health Planning and Development as these authorities pertain to the functions assigned to the Health Services Administration:

Authority under section 1513(e)(2) (42 U.S.C. 300*l*-2(e)(2)), to make Federal funds available, after appropriate review, to an entity disapproved by a Health System Agency;

Authority under section 1521(d)(2) (42 U.S.C. 300m(d)(2)), to make certain allotment reductions when the Secretary has determined an agreement is not in effect; and

Authority under section 1524(c)(6) (42 U.S.C. 300m-3(c)(6)), to expand or withhold Federal funds pursuant to recent findings pertinent to State plans.

The delegation to the Administrator, Health Services Administration, became effective on August 11, 1981.

Dated: August 11, 1981.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 81-24663 Filed 8-24-81; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammal Annual Report; Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: The Director, U.S. Fish and Wildlife Service, on June 19 signed the annual report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period April 1, 1980, to December 31, 1980, and was submitted to the Congress on July 31. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (PUB), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Gillett, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202–632–7463.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972 (MMPA). These species are polar bears, sea and marine otters, walruses, manatees (three species), and dugongs. The report reviews the Service's marine mammal-related activities during the report period. Administrative actions discussed include MMPA appropriations, financial grants to States to help them develop and implement programs for protecting and managing marine mammals in their waters, marine mammals in Alaska, legal actions against the Department of the Interior, endangered and threatened marine mammal species (specifically the West Indian manatee and the sea otter in California), law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies, and international activities.

This notice was prepared by Rupert R. Bonner, Wildlife Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202–632–2202.

Dated: August 14, 1981.

F. Eugene Hester,

Acting Deputy, Director, Fish and Wildlife Service.

[FR Doc. 81–24658 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 0982 and 0983, Blocks 238 and 252, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procdures are set out in a revised § 250.34 of title 30 of the Code of Federal Regulations.

Dated: August 17, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81–24652 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[AR–011850 etc.]

Arizona; Order Providing for Opening of Public Lands; Correction

August 17, 1981.

In FR Doc. 81–22805 appearing at pages 39900 and 39901 in the issue of Wednesday, August 5, 1981, make the following changes:

On Page 3900, the second column, under Serial No. AR–011990 change the last line now reading "T. 18., R. 16 W.," to read "T. 18 N., R. 16 W.,"; on the same page, third column, Serial No. AR–013162, change the 51st line now reading "W½SW¼SW¼, NW¼, NE¼SW¼;" to read "W½SW¼SW¼, NW¼, NW¼SW¼;".

On Page 39901, the first column, paragraph 2, change the 7th line now reading "011950, AR–011952, AR–011990, AR" to read "011850, AR–011852, AR–011990, AR."

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–24653 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–84–M

[AR–09296 etc.]

Arizona; Order Providing for Opening of Public Lands; Correction

August 17, 1981.

In FR Doc. 81–22170 appearing at page 39041, in the issue of Thursday, July 30, 1981, make the following changes:

On Page 39041, the first column, Serial No. AR–010159, change the 28th line now reading "sec. 14, NW¼, S½NW¼, NE¼NW¼" to read "sec. 14, NE¼, S½NW¼, NE¼NW¼"; delete the 33rd, 34th and 35th lines reading: "AR–010198, T. 9 S., R. 23 W., sec. 16, SE¼SE¼NE¼,"; and on the same page, 2nd column, paragraph 2, change the 14th line now reading "sec. 15 T. 7 S., R. 11 W., sec. 5, 13, and " to read "sec. 15, T. 7 N., R. 11 W., secs. 5, 13, and.".

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–24654 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–84–M

[AR–02656, etc.]

Arizona; Order Providing for Opening of Public Lands: Correction

August 17, 1981.

In FR Doc. 81–22169 appearing on pages 39041 and 39042, in the issue of Thursday, July 30, 1981, make the following changes:

On Page 39041, third column, Serial AR–014386, change the 20th line now reading "T. 16 N., R. 15 W.," to read "T. 16 N., R. 14 W.", and under Serial No. AR–017523, change the 47th line now reading "sec. 19, Lots 4 thru 4 incl., E½W½, E½." to read "sec. 19, Lots 1 thru 4 incl., E½W½, E½."

On Page 39042, first column, 2nd paragraph, change the last line of paragraph 2 now reading "under serial No. AR–015416" to read "under Serial No. AR–015476."

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-24655 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

Battle Mountain District Advisory Council; Meeting

The Battle Mountain District of the Bureau of Land Management, in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 (FLPMA), will convene a multiple-use Advisory Council meeting on September 25, 1981, at 9 a.m., in the Shoshone-Eureka conference room of the Battle Mountain District Office in Battle Mountain, Nevada. The agenda is scheduled as follows:

Friday, September 25, 1981

Shoshone-Eureka Conference Room, Battle Mountain District Office, Battle Mountain, Nevada

9:00 a.m. to 9:30 a.m.—Opening remarks by district manager and chairperson
9:30 a.m. to 9:45 a.m.—Secretary calls roll and reads minutes of previous meeting
9:45 a.m. to 10:45 a.m.—Management alternatives for wild horse management plans (Robert Scalese)
10:45 a.m. to 11:00 a.m.—Public comment or introduction to Wilderness EIS alternatives (Jon Joseph)
11:00 a.m. to 1:00 p.m.—Lunch
1:00 p.m. to 2:00 p.m.—Wilderness EIS alternatives continued (Jon Joseph)
2:30 p.m. to 2:45 p.m.—Break
2:45 p.m. to 4:00 p.m.—Wilderness EIS alternatives continued (Jon Joseph)
4:00 p.m. to 4:45 p.m.—Morey's Habitat Management Plan (Dorothy Mason)
4:45 p.m. to 5:15 p.m.—Closing remarks by district manager and chairperson

Members of the public are welcome to make oral comments at 10:45 a.m. Persons wishing to do so should contact H. James Fox.

For more information, please contact the responsible officer, H. James Fox, District Manager at the following address: Bureau of Land Management, Battle Mountain District Office, P.O. Box 194, North 2nd and Scott Streets, Battle Mountain, Nevada 89820, Telephone: (702) 635–5181.

Dated: August 14, 1981.

Michael C. Mitchel,

Acting District Manager, Battle Mountain District, Nevada.

[FR Doc. 81-24660 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 19177]

Oregon; Order Providing for Opening of Land

1. By Power Site Cancellation No. 201 of December 5, 1972, the U.S. Geological Survey cancelled a portion of the land withdrawal for Power Site Classification No. 379 of December 9, 1946, as to the following described lands:

Willamette Meridian

T. 18 S., R. 2 W.,
Sec. 10, Lot 4.
Sec. 15, Lots 2 and 3;
Sec. 36, Lots 1, 2, 3, and 4.
T. 19 S., R. 1 E.,
Sec. 18, Fractional NW¼NW¼.

Willamette National Forest

T. 20 S., R. 2 E.,
Sec. 21, SE¼NW¼.
T. 21 S., R. 2 E.,
Sec. 10, NE¼SE¼;
Sec. 11, NW¼SW¼;
Sec. 14, SW¼NE¼.
T. 20 S., R. 3 E.,
Sec. 28, NW¼SE¼;
Sec. 33, NE¼NW¼ and SW¼NW¼.
T. 21 S., R. 3.,
Sec. 5, Lot 3;
Sec. 19, Lots 2, 4, and 5, and SE¼NW¼;
Sec. 20, Lots 1, 2, 3, and 4;
Sec. 35, Lot SE¼SE¼.
T. 22 S., R. 3 E.,
Sec. 3, Lot 3
T. 24 S., R. 4 E.,
Sec. 10 SW¼SW¼;
Sec. 12 N½, NE¼SW¼ and N½SE¼;
Sec. 14 N½.

The areas described aggregate 1,660.68 acres in Lane County, Oregon.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The land in Secs. 15 and 36, T. 18 S., R. 2 W., has been conveyed from United States ownership and will not be open to operation of the public land laws, including the mining and mineral leasing laws.

4. The land in Sec. 10, T. 18 S., R. 2 W., and Sec. 18, T. 19 S., R. 1 E., is withdrawn for multiple use management by Public Land Order No. 5490 of February 12, 1975, and will not be open to operation of the public land laws.

5. By virtue of the authority contained in Section 204 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818, and in accordance with the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered that at 10 a.m., on September 15, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1, except as provided in paragraphs 3 and 4, will be open to such forms of disposition as may by law be made of national forest lands.

6. The lands described in paragraph 1, except as provided in paragraph 3, have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

August 10, 1981.

[FR Doc. 81-24649 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

Conveyance Management Office Alaska State Office; Redelegation of Authority

August 11, 1981.

1. Pursuant to the authority contained in Part I, § 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, and the establishment of the Conveyance Management organization in the Alaska State Office, authority is hereby redelegated to the Assistant to the State Director for Conveyance Management; Chief, Division of ANCSA and State Conveyances; Chief, Branch of ANCSA Adjudication; and Chief, Branch of State Adjudication to take action on the following matters listed in Part II:

Sections

2.2 (c) and (k);
2.5 (b) and (c);
2.6 (a), (b), (k), and (n);
2.9 (b), (c), (d), (f), (i), (m), (n), (p), (t)(7), and (y).

2. The Assistant to the State Director for Conveyance Management; Chief, Division of ANCSA and State Conveyances; Chief, Branch of ANCSA Adjudication; and Chief, Branch of State Adjudication, may in their discretion, personally exercise any authority hereby delegated.

3. The Assistant to the State Director for Conveyance Management, may by written order, designate any qualified employee to perform the functions of his or her position in his or her absence. Such order will be approved by the

State Director. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

4. The Chief, Division of ANCSA and State Conveyances, may by written order, designate any qualified employee of the Division of ANCSA and State Conveyances to perform the functions of his or her position in his or her absence. Such order will be approved by the Assistant to the State Director for Conveyance Management. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

5. The Chief, Branch of ANCSA Adjudication, may, by written order, designate any qualified employee of the Branch of ANCSA Adjudication, Division of ANCSA and State Conveyances, to perform the functions of his or her position in his or her absence. Such order will be approved by the Chief, Division of ANCSA and State Conveyances. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

6. The Chief, Branch of State Adjudication, may by written order, designate any qualified employee of the Branch of State Adjudication, Division of ANCSA and State Conveyances, to perform the functions of his or her position in his or her absence. Such order will be approved by the Chief, Division of ANCSA and State Conveyances. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

7. Effective Date: This delegation of authority will become effective upon publication in the **Federal Register.**

Fred Wolf,

Acting State Director.

[FR Doc. 81-24644 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

[M 9703]

Montana; Termination of Proposed Withdrawal and Reservation of Lands

August 17, 1981.

Notice of an application filed by the Bureau of Reclamation, U.S. Department of the Interior, M 9703, for withdrawal and reservation of public lands was published as **Federal Register** Document 68-8706 on pages 10465 and 10466 of the issue for July 23, 1968. The Bureau of Reclamation has canceled its application involving 3,428.56 acres described in the **Federal Register** publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such lands will be relieved of the segregative effect of the above-mentioned application at 8 a.m. on September 30, 1981.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-24723 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

[M 41607]

Montana; Order Providing for Opening of Public Lands and Terminating Segregation, in Part

The Federal Power Commission (now Federal Energy Regulatory Commission) in an order issued April 10, 1981, found the withdrawal for transmission line Project No. 695 served no useful purpose and vacated it in its entirety.

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075, 16 U.S.C. 818), as amended, and pursuant to Bureau Order No. 701 of July 23, 1964, as amended October 18, 1973 (38 FR 28961), it is ordered as follows:

1. The segregative effect of the withdrawal for Project No. 695 is lifted as to the land affected which is approximately 114 acres of lands in the following described area:

Principal Meridian Gallatin National Forest

T. 9 S., R. 14 E.,
Sec. 11, Portion of Lot 9;
Sec. 12, Portion of Lot 10, SW¼SE¼, and SE¼SW¼; and
Sec. 13, Portion of Lot 1 and NW¼NE¼.
T. 9 S., R. 15 E.,
Sec. 18, Portion of Lots 4, 5, and 6 and E½SW¼;
Sec. 19, Portion of W½NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 20, Portion of S½SW¼; and
Sec. 28, Portion of Lots 6 and 7 and S½NW¼.

These lands are located in Park County, Montana.

3. The S½SW¼, Sec. 20 and Lots 6 and 7 of Sec. 28, T. 9 S., R. 15 E., remain segregated under the public land laws and mining laws by virtue of Secretarial Order dated August 17, 1907, and PLO 2603 which withdrew said lands for administrative sites.

4. Lot 6 remains segregated from disposition under the public land laws by virtue of the Power Project Interpretation No. 1461 dated January 26, 1939.

5. The lands have been open to applications and offers under the mineral leasing laws.

6. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

August 17, 1981.

[FR Doc. 24726 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049761, Nev-049791, Nev-049794]

Nevada; Classifications Vacated

August 17, 1981.

Small Tract Classifications Nev-049761 and Nev-049791 are hereby vacated in their entirety and Nev-049794 is vacated in part.

The following described land is affected:

Mount Diablo Meridian

(Nev-049761)

T. 21 S., R. 60 E.,
Sec. 3, Lots 22, 23, 25, 49, 59, 72, 73, 77, 78, 88, 89, 90, 95, 96, 97, 114;
Sec 4, Lots 12, 17, 18, 19, 22, 23, 35, 39, 57, 84, 87, 88, 90, 92, 93, 95.

(Nev-049791)

T. 21 S., R. 60 E.,
Sec 9, NE¼NE¼;
Sec. 10, All.

(Nev-049794)

T. 20 S., R. 60 E.,
Sec. 4, SW¼;
Sec. 9, All;
Sec. 10, W½;
Sec. 28, N½NE¼, NW¼.

The area described contains 2,103.53 acres.

These classifications are determined to be unnecessary since the subject lands are either patented, subject to sale under Pub. L. 96-586, under application for public purposes, or subject to other classification.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 81-24725 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

[U-6354]

Utah; Order Providing for Opening of Public Lands

By published notice (36 FR No. 211, November 2, 1971) the U.S. Geological

Survey cancelled Powersite Classification No. 323 as to certain described lands.

Under authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered as follows:

The National resource lands as described in Powersite Cancellation No. 263 **Federal Register** Vol. 36, No. 211, November 2, 1971, are hereby restored to disposition under applicable public land laws, subject to valid existing rights and provisions of existing withdrawals.

Dated: August 17, 1981.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-24648 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 14, 1981. Pursuant to § 120213 of 36 CFR Part 1202, written comments concerning the significanced of these properties under the National Register, criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by September 8, 1981.

Carol Shull,

Acting Keeper of the National Register.

NEW YORK

Suffolk County

Bay Shore vicinity, *Fire Island Light Station,* Robert Moses Causeway

PENNSYLVANIA

FOUR PUBLIC SQUARES OF PHILADELPHIA THEMATIC RESOURCES.

Reference—see individual listings under Philadelphia County.

Adams County

Cashtown vicinity, *Carbaugh Run Rhyolite Quarry Site (36AD30)*

Centre County

State College, *Farmers' High School (Pennsylvania State College)* College Ave. and Atherton St.

State College, *Tudek Site (36Ce238)*

Dauphin County

Halifax vicinity, *Clemson Island Prehistoric District*

Lackawanna County

Scranton, *Municipal Building and Central Fire Station,* 340 N. Washington Ave. and 518 Mulberry St.

Lehigh County

Alburtis, *Lock Ridge Furnace Complex,* Franklin and Church Sts.

Allentown, *Haines Mill,* Walnut St. and Main Blvd.

Allentown, *Lehigh County Prison,* 4th and Linden Sts.

Allentown, *Old Lehigh County Courthouse,* 5th and Hamilton Sts.

Northumberland County

Northumberland, *Priestley, Dr. Joseph, House (Cross Keys Inn)* 100 King St.

Philadelphia County

Philadelphia, *Franklin Square (Four Public Squares of Philadelphia Thematic Resources)* Race and 6th Sts.

Philadelphia, *Logan Square (Four Public Squares of Philadelphia Thematic Resources)* 18th and Race Sts.

Philadelphia, *Rittenhouse Square (Four Public Squares of Philadelphia Thematic Resources)* Rittenhouse Sq. and 18th St.

Philadelphia, *Washington Square (Four Public Squares of Philadelphia Thematic Resources)* Locust and 6th Sts.

TEXAS

Bexar County

San Antonio, *City of San Antonio Municipal Auditorium,* 100 Auditorium Circle.

WISCONSIN

Dodge County

Horicón, *Van Brunt, Daniel C., House,* 139 W. Lake St.

Douglas County

Lake Nebagamon, *Lake Nebagamon Auditorium,* 1st St.

La Crosse County

West Salem, *West Salem Village Hall,* 103 S. Leonard St.

Sauk County

Baraboo, *Baraboo Public Library,* 230 4th Ave.

Prairie du Sac, *Tripp Memorial Library and Hall,* 565 Water St.

* * * * *

[FR Doc. 81-24464 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-70-M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Wednesday, September 16, 1981, at 7:30 p.m. at the Mather Training Center, Harpers Ferry, West Virginia.

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:

Honorable Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Miss Margaret Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. Donald H. Shannon, Washington, D.C.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Toxic Waste Dump, Southern Washington County.
2. Commerical Boating.
3. Commerical Instrusion.
4. Bicycle Safety.
5. Horse Policy.
6. Status of Cumberland/North Branch area plan.
7. Status of Williamsport area plan.
8. Status of Brunswick area plan.
9. Superintendent's Report.

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 Richard L. Stanton, 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: August 18, 1981.

Robert Stanton,

Acting Regional Director, National Capitol Region.

[FR Doc. 81-24666 Filed 8-24-81; 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 7:00 p.m., Tuesday, September 8, 1981 at Mission San Francisco de la Espada, 10040 Espada Road, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

—Land Acquisition Report
—San Jose Arbor Project
—Aqueduct Trail
—Protection Zone Report
—Museum Collections-Mission Artifacts
—Concepcion Compound
—Interim Preservation Projects

The meeting will be opened to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first come, first served basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango, Room A612, San Antonio, Texas 78206, telephone 512–229–6000.

Minutes of the meeting will be available for public review four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: August 14, 1981.

B. Joann Farnsley,

Acting Superintendent.

[FR Doc. 81–24666 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Chickasaw National Recreation Area, Oklahoma

Correction of Boundary Map

On March 9, 1978, a notice of the revision of park boundaries for the Chickasaw National Recreation Area, Oklahoma, was published in the **Federal Register**, Vol. 43, No. 47, page 9659. This notice revised the boundaries of the area to those shown on a map entitled "Proposal Land Acquisition, Chickasaw National Recreation Area," Drawing No. 107/30,013 A, 12/77, DSC.

It has been discovered that the above-named map erroneously included within the boundaries 15 acres of land which had been acquired by the United States but which were subsequently quitclaimed back to the former owners. This land is legally described as: W½W½NE¼SE¼; W½SW¼SE¼ NE¼; all in Section 13, Township 1 South, Range 2 East, Indian Meridian.

A new boundary map has been prepared to correct this error, and is designated "Proposed Land Acquisition, Chicksaw National Recreation Area," Nov. 80—107/30,013 B, DSC. This map supersedes those previously issued and is on file and available for inspection in the Offices of the National Park Service, Department of the Interior.

Dated: August 15, 1981.

Donald Paul Hodel,

Acting Secretary of the Interior.

[FR Doc. 81–24667 Filed 8–24–81; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29707]

Iowa Northern Railroad Company—Exemption; Notice of Exemption

August 19, 1981.

On July 31, 1981, the Carus Corporation (Carus) filed a notice of exemption of a transaction under 49 CFR 1111.5(c)(2).

Carus, a non-carrier, controls the La Salle and Bureau County Railroad (LSBC), a Class III rail carrier operating over its own lines and certain lines of the former Chicago, Rock Island & Pacific Railroad Company (Rock Island) located entirely within Illinois. Carus has formed a new corporation, the Iowa Northern Railroad Company (INRC), which is currently conducting operations over certain lines of the Rock Island in Iowa pursuant to Service Order N. 1473 (21st revision). Were it not for the class exemption at 49 CFR 1111.5(c)(2), Carus would be required to file an application pursuant to 49 U.S.C. 11343 for Commission authorization of its control of two carriers.

Carus states that the control transaction meets all of the criteria for exemption under section 1111.5(c)(2). First, the lines to be operated by INRC will not connect at any point with lines operated by LSBC, because INRC will be operated solely within Iowa while all of the LSBC lines are located in Illinois. Second, Carus does not anticipate any further transactions, by any member of its corporate family, that would result in any Carûs-controlled connection between INRC and LSBC lines. Third, neither LSBC nor INRC is or will be a Class I carrier.

Carus formed the INRC at the request of a group of Iowa shippers who have been without rail service since the Rock Island ceased operations. The line to be operated by INRC runs between Cedar Rapids and Waterloo, between Shell Rock and Nora Springs and between Vinton and milepost 22.5 on the Iowa Falls line.

The employees hired by INRC will be covered by the applicable requirements of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, 94 Stat. 399 (1980). The new operator, INRC, presently holds no permanent authority. In such a situation, involving a new carrier, labor protection is discretionary with the Commission, see *Prairie Trunk Railway—Acquisition and Operation*, 348 ICC 832 (1977). We find no need for any greater labor protection in this proceeding than that indicated above.

Nothing in this notice exempts INRC from the obligation to comply with the Milwaukee Railroad Restructuring Act, as modified by the Rock Island Railroad Transition and Employee Act, regarding authorization for temporary service or permanent operations.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–24680 Filed 8–24–81; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Decisions Volume No. 147]

Motor Carriers; Restriction Removals; Decision-Notice

Decided: August 19, 1918.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 42866 (Sub-21)X, filed August 3, 1981. Applicant: NATIONAL VAN LINES, INC., 2800 Roosevelt Rd., Broadview, IL 60153. Representative: John P. Torpats (same as applicant). Applicant seeks to remove restrictions in Sub-No. 18 certificate to (1) broaden the commodity description from carpets, rugs, carpet padding and plastic and rubber articles used in the manufacture and distribution of carpets and rugs to "textile mill products," in Sub-No. 18, (2) replace one-way authority with radial authority, (3) broaden the territorial description by substituting county-wide authority for facilities as follows: Philadelphia County, PA (for Philadelphia, PA); Mercer County, NJ (for Trenton, NJ); Dallas County, TX (for Dallas, TX); Bedford County, TN (for Shelbyville, TN); Los Angeles County, CA (for Los Angeles, CA); Lowndes County, MS (for Columbus, MS); Lee County, MS (for Tupelo, MS) and Allen County, IN (for Fort Wayne, IN), and (4) remove the AK and HI exceptions.

MC 112288 (Sub-18)X, filed July 23, 1981. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune Street, Winston-Salem, NC 27107. Representative: James F. Flint, 406 World Center Building, 918—16th Street, N.W., Washington, DC 20006. Applicant seeks to remove restrictions from its Sub-Nos. 10G, 11, 14, and 16F certificates and E letter notice E-4, and authority in MC-139522 and MC-32632 and Sub-Nos. 10, 16 and 19 certificates acquired in MC-F-14335F to (1) broaden the commodity description from household goods to "household goods and furniture and fixtures" in MC-112288 Sub-Nos. 10G and 16 and E4, MC-32632 and its Sub-No. 10; from general commodities with the usual exceptions to "general commodities (except Class A and B explosives)" in MC-112288 Sub-No. 16, MC-32632 and its Sub-No. 10; from carnival equipment and road building machinery and equipment to "machinery, lumber and wood products, pulp, paper and related products, printed matter, rubber and plastic products, transportation equipment, metal products, clay, concrete, glass or stone products, and textile mill products" in MC-139522 and MC-112288 (Sub-No. 16); from airconditioning, air filtration, refrigeration and humidifying equipment to "machinery" in MC-32632, from lumber to "lumber and wood products" in MC-32632 and its Sub-No. 10; from sand and gravel crushed stone, clay and shale products and brick in MC-32632, from clay and shale products in MC-32632 (Sub-No. 10) and from brick in MC-32632 (Sub-No. 19) to "clay, concrete, glass or stone products"; from feed, agricultural commodities, livestock, poultry and eggs in MC-32632 and from agricultural commodities and feed and groceries in MC-32632 (Sub-No. 10) to "food and related products"; from fertilizer and fertilizer materials, nitrate of soda and fertilizer in MC-32632 (Sub-No. 10) and from fertilizer and fertilizer materials in MC-32632 to "chemicals and related products" from tobacco to "tobacco products" in MC-32632 (Sub-No. 10); from petroleum to "petroleum, natural gas and their products" in MC-32632; from baskets and crates to "lumber and wood products, pulp, paper and related products, rubber and plastic products, leather and leather products, and metal products" to MC-32632; from bagging and ties to "textile mill products, and plastic and rubber products," in MC-32632; from agricultural commodities and lumber to "food and related products and lumber and wood products" in MC-32632; from galvanized metal roofing to "metal products" in MC-32632 (Sub-No. 10); from cotton to "textile mill products" in MC-32632 (Sub-No. 10); and from canned goods, agricultural commodities, tobacco dust, feed and cotton to "food and related products, tobacco products and textile mill products" in MC-32632 (Sub-No. 10), (2) remove the restriction to transportation of commodities which because of size or weight require special equipment in MC-112288 (Sub-Nos. 10G, 11, 14, and 16) and on 3 specific routes in MC-139522, (3) remove the restriction to specific commodities only for loading or unloading where such loading or unloading is performed by the consignor or consignee in part (4) of MC-112288 (Sub-No. 16F) (4) remove the "in container" restriction in MC-32632 (5) change city to county-wide authority (a) in MC-112288 Sub-No. 11 from Winston-Salem and Greensboro, NC to Forsyth and Guilford Counties, NC, (b) in No. MC-112288 Sub-No. 14 from Salisbury, NC to Rowan County, NC, (c) in MC-32632 from Murfreesboro, Woodland, and Ahoskie, NC; Trego, VA; Rich Square, Pomona and Weldon, NC, to Hertford, Northampton and Bertie Counties,

NC; Greensville County, VA; Northampton, Guilford and Halifax Counties, NC, (d) in MC-32632 Sub-No. 10 from Mullens, SC to Marion County, SC; from Jarratt, and Alberta, VA to Sussex and Brunswick Counties, VA; from Warrenton and Wise, NC to Warren County, NC from Newark, NJ to Bergen, Essex, Union and Hudson Counties, NJ and (e) in MC-32632 Sub-No. 19 from Ita, NC to Halifax County, NC; (6) change mileage radii to county-wide authority (a) in MC-32632 from points in NC within 75 miles of Trego, VA, to points in that part of North Carolina in and north of Person, Durham, Wake, Johnston, Wayne, Greene, Pitt, Beaufort, Washington, Perquimans, Pasquotank, Camden, and Currituck Counties, NC; from Rich Square, NC, and points and places within 50 miles of Rich Square to points in Warren, Franklin, Nash, Wilson, Greene, Pitt, Beaufort, Edgecombe, Halifax, Northampton, Hertford, Bertie, Martin, Washington, Chowan, Gates, Perquimans, Pasquotank, and Camden Counties, NC; from Severn and Mount Olive, NC and points in NC within 50 miles of Severn and Mount Olive to Warren, Franklin, Wake, Harnet, Cumberland, Bladen, Sampson, Pender, Duplin, Onslow, Jones, Craven, Lenoir, Wayne, Johnston, Wilson, Nash, Halifax, Northampton, Hertford, Bertie, Martin, Edgecombe, Pitt, Greene, Washington, Chowan, Perquimans, Pasquotank, Gates, and Camden Counties, NC; from points and places in NC within 75 miles of Severn, NC, to Granville, Vance, Franklin, Warren, Halifax, Nash, Wilson, Greene, Pitt, Edgecombe, Martin, Bertie, Northampton, Hertford, Gates, Chowan, Washington, Beaufort, Hyde, Tyrrell, Perquimans, Pasquotank, Camden, and Currituck Counties, NC; from between points in NC and VA within 100 miles of Jackson, NC, to points in that part of NC in, and east of Caswell, Orange, Chatham, Harnet, Sampson, Duplin, Onslow, Jones, and Craven Counties, NC and points in that part of VA in and south of Pittsylvania, Campbell,

Appomatox, Buckingham, Flavanna, Louisa, Hanover, Caroline, King William, King and Queen, Middlesex, Mathews, Gloucester, and York Counties, VA and Hampton, Norfolk, and Virginia Beach, VA; (b) in MC–32632 (Sub-No. 10) from Ridgeway, Wallace and Faison, NC, and points in NC within 20 miles of these points to Johnston, Wayne, Lenoir, Duplin, Sampson, Bladen, Pender, Onslow, Vance, Warren, Halifax, and Franklin Counties, NC; from Henderson and Warrenton, NC, and points in NC within 35 miles thereof to Person, Orange, Durham, Wake, Franklin, Granville, Vance, Warren, Northampton, Halifax, Edgecombe, and Nash Counties, NC; from Warrenton, NC, and points in NC within 35 miles of Warrenton to Franklin, Granville, Vance, Warren, Northampton, Halifax, and Nash Counties, NC; from Warrenton, NC and points in NC within 100 miles of Warrenton to Rockingham, Guilford, Randolph, Moore, Caswell, Alamance, Person, Orange, Chatham, Lee, Harnet, Cumberland, Sampson, Johnston, Wake, Durham, Granville, Wayne, Duplin, Jones, Lenoir, Craven, Beaufort, Pitt, Wilson, Nash, Franklin, Vance, Pasquotank, Perquimans, Chowan, Bertie, Washington, Martin, Hyde, and Edgecombe Counties, NC; and from Greensboro, NC, and points in NC within 85 miles of Greensboro to Ashe, Alleghany, Wilkes, Alexander, Catawba, Lincoln, Gaston, Mecklenburg, Lenoir, Surry, Yadkin, Iredell, Rowan, Davie, Cabarrus, Stanly, Anson, Stokes, Forsyth, Davidson, Montgomery, Richmond, Randolph, Guilford, Rockingham, Caswell, Alamance, Chatham, Lee, Moore, Hoke, Cumberland, Scotland, Harnett, Johnston, Wake, Franklin, Vance, Granville, Person, Durham, and Orange Counties, NC, and (7) change one-way to radial authority in MC–112288 (Sub-Nos. 10G, 11, 14, 16F and E–4), MC–32632 and Sub-Nos. 10, 16, and 19.

MC 115212 (Sub-2)X, filed August 5, 1981. Applicant: H. M. H. MOTOR SERVICE, R.D. 2, Box 119, Cranbury, NJ 08512. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its lead MC–115212 M1 and Sub-No. 1 permits to (1) broaden the commodity description to "such commodities as are dealt in or used by retail stores" from such commodities as are dealt in by retail women's and children's ready-to-wear apparel stores, and in connection therewith, supplies and equipment used in the conduct of such businesses; from women's and children's wearing apparel (except millinery and shoes), and supplies and equipment used in retail women's and children's ready-to-wear apparel stores; clothing, such as is dealt in by discount department stores, in the lead and from such commodities as are dealt in or used by department and apparel stores, in Sub-No. 1 and (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with named shippers.

MC 119567 (Sub-20)X, filed August 6, 1981. Applicant: EMPIRE TRANSPORT, INC., 2007 Overland Rd., Boise, ID 83705. Representative: Timothy R. Stiver, P.O. Box 1576, Boise, ID 83701. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 5, 7, 10, 14, 16, 17F, and 19F certificates to (1) broaden the commodity descriptions from cement, cement products, shingles, posts, lumber and lumber products to "clay, concrete, glass or stone products, building materials, and lumber and wood products" in its lead; from cement and cement products to "clay, concrete, glass or stone products" in its Sub-No. 1; from cement to "chemicals and related products" in Sub-No. 5; from cement, concrete tanks, sand, steel tanks, pipe, and fabricated steel products to "building materials, ores and minerals, clay, concrete, glass or stone products and metal products" in its Sub-No. 7; from pozzolan, cement, sand, and scrap metal, to "clay, concrete, glass or stone products and metal products" in Sub-No. 10; from pozzolan and cement, to "clay, concrete, glass or stone products," in Sub-No. 14; from silica sand to "clay, concrete, glass or stone products" in Sub-No. 16F; from lime and lime aggregates to "ores and minerals" in Sub-No. 17F; and from sand to "clay, concrete, glass or stone products"; (2) remove a minimum weight restriction in its lead; (3) remove "in containers, bags, bulk, or sacks" wherever they appear; and (4) replace one-way with radial authority.

MC 124170 (Sub-181)X, filed August 10, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restictions in its Sub-Nos. 25 and 117F certificates to (1) broaden the commodity description from bananas and agricultural commodities exempt from economic regulation in Sub-No. 25 and frozen foods and exempt commodities to "food and related products"; (2) remove the facilities limitation at Syracuse, NY, in Sub-No. 117F; and (3) replace one-way with radial authority in both certificates.

MC 124170 (Sub-182)X, filed August 6, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions in its Sub-Nos. 97F and 98F certificates to (1) broaden the commodity description from bananas and agricultural commodities otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(16) when transported in mixed loads with bananas to "food and related products", in Sub-Nos. 97F and 98F, (2) replace one-way authority with radial authority and (3) broaden the territorial description by substituting county-wide authority for city-wide authority as follows: Hillsborough and Pasco Counties, FL (for Tampa, FL), in Sub-No. 97F and Dade County, FL (for Miami, FL), in Sub-No. 98F.

MC 126537 (Sub-39)X, filed August 7, 1981. Applicant: KENT I. TURNER, KENNETH E. TURNER and ERVIN L. TURNER, a Partnership d.b.a. TURNER EXPEDITING SERVICE, P.O. Box 21333, Standiford Field, Louisville, KY 40221. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, KY 40601. Applicant seeks to remove restrictions in its Sub-Nos. 21, 23, 24, 34, and 37F certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", (2) remove the ex-air restriction, in Sub-No. 23, (3) remove the facilities limitation, in Sub-Nos. 21, 23, 24, 34, and 37F, (4) remove originating at, or destined to restriction, in Sub-No. 23, (5) replace one-way authority with radial authority, in Sub-No. 34 and (6) broaden the territorial description by substituting county-wide and city wide authority for airports and facilities as follows: Boyle County, KY (for facilities at Danville, KY) and Louisville, KY (for Standiford Field, Louisville, KY), in Sub-No. 21; Boyle County, KY (for facilities at Danville, KY), in Sub-No. 23, and Boyle County, KY (for facilities at Danville, KY) and Cleveland, OH (for facilities at Cleveland, OH).

MC 140104 (Sub-11)X, filed August 7, 1981. Applicant: TOLEDO FRIGID LINES, INC., 4060 Fitch Road, Toledo, OH 43613. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-No. 2, 5F and 6F permits and its Sub-No. 10 certificate to (1) broaden the commodity description to "such commodities as are dealt in or used by manufacturers and/or distributors of food and related products" from (a) ice cream, ice cream

confections, ice confections, ice water confections and frozen deserts, and materials, ingredients, equipment and supplies used in the manufacture of baked goods, and materials, equipment and supplies used in the manufacture of the above commodities, in Sub-Nos. 2 and 5F, and (b) such commodities as are dealt in or used by manufacturers and distributors of foodstuffs in Sub-No. 10; (2) eliminate the restriction prohibiting, or limiting service to, the transportation (a) of commodities in bulk, in Sub-Nos. 2 (parts 2 and 4) 5F and 6F (part 1), and (b) in refrigerated equipment, in Sub-No. 2 (part 1) and (3) broaden the territorial description to "between points in the U.S.," under continuing contract(s) with named shippers, in all permits.

MC 140404 (Sub-2)X, filed July 30, 1981. Applicant: STERLING STORAGE & DISTRIBUTING CO., INC., 1000 McKees Avenue, McKees Rocks, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificates to (1) broaden the commodity description from general commodities, with exceptions, to "general commodities (except Classes A and B explosives)" in Sub-No. 1; (2) remove the facilities limitation (a) at Pittsburgh, PA in Sub-No. 1 and (b) in the lead and replace McKees Rock, PA with Allegheny County, PA; (3) remove the restriction limiting transportation to traffic originating at or destined to named facilities in both Subs, and (4) change one-way to radial authority in the lead.

MC 145158 (Sub-2)X, filed August 3, 1981. Applicant: REX L. AUSTIN d.b.a. REX TRANSPORT, 598 Hermes, Encinitas, CA 92024. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to broaden the commodity description from mobile homes and buildings in sections to "lumber and wood products, metal products, and transportation equipment."

MC 145559 (Sub-12)X, filed July 2, 1981 and previously noticed in the **Federal Register** of July 28, 1981, republished as corrected, this issue. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restriction from its Sub-No. 5F certificates to (1) broaden the commodity description from general commodities with the usual exceptions to general commodities (except Classes A and B explosives), (2) change city to county-wide authority from Los Angeles, CA to Los Angeles, Orange, and Ventura Counties, CA, and (3) remove restriction to transportation of traffic moving from or to facilities used by a named shipper association and its members. The purpose of this republication is to correct inadvertent omissions from the proposed territorial expansion.

MC 146464 (Sub-9)X, filed July 31, 1981. Applicant: NEVADA GENERAL TRANSPORTATION, INC., P.O. Box 391, Elko, Nevada 89801. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Applicant seeks to remove restrictions from its Sub-Nos. 3F, 4F, and 5F Certificates to (1) change the commodity descriptions to (a) "food and related products" from potato flakes in Sub-No. 3F and malt beverages, wine, juices, cocktail mixes, carbonated beverages in Sub 4F; and (b) "petroleum, natural gas and their products" from petroleum and petroleum products in Sub 5F; (2) replace authority to serve specified points with county-wide authority: in Sub 3F, Winnemucca, NV, Portland, OR, Clearfield, UT, and Shelley, ID, with Humbolt County, NV, Multnomah and Washington Counties, OR, Davis County, UT, and Bingham County, ID; and in Sub-No. 4F, Portland, OR, with Multnomah and Washington Counties, OR; (3) eliminate restrictions against service to Reno and Las Vegas, NV in Sub-No. 4F; (4) expand its one-way to radial authority between various combinations of specified points in California, Oregon, Idaho, Nevada, and Utah, in all subs.

MC 148158 (Sub-14)X, filed July 28, 1981. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description from general commodities with usual exceptions to general commodities (except classes A and B explosives); (2) remove facilities limitation and replace El Paso, TX with El Paso County, TX, (3) remove restrictions against service to AK and HI; and (4) remove the restrictions to traffic originating at or destined to named points.

MC 148817 (Sub-5)X, filed July 27, 1981. Applicant: BALL MOTOR LINE, INC., P.O. Box 665, Plymouth, FL 32768. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Applicant seeks to remove restrictions in its Sub-Nos. 2F, 3F, and 4 permits to (1) broaden commodity descriptions from (a) electronic equipment and components thereof to "machinery and electric equipment" in Sub-Nos. 2F and 4; (b) plastic molded shipping containers to "rubber and plastic products" in Sub-No. 3F; (c) carpet padding to "textile mill products, and rubber or plastic products" in Sub-No. 4; (d) plastic products (except in bulk) to "rubber and plastic products" in Sub-No. 4; (e) plastic products, machine parts and molds, (except in bulk) to "rubber and plastic products, and machinery" in Sub-No. 4 (sheets 2 and 4); (f) such commodities as are dealt in by wholesale plumbing and electrical suppliers (except commodities in bulk) to "such commodities as are dealt in by wholesale plumbing and electric supply companies" in Sub-No. 4; (2) broaden the territorial description to "between points in the United States, under continuing contract(s) with named shippers" in all permits; and (3) remove restrictions (a) against transportation of commodities in bulk, on sheets 2, 3 and 4 of Sub-No. 4; (b) against transportation of commodities which, because of size or weight, require special equipment, on sheet 3 of Sub-No. 4; and (c) against traffic originating at named points destined to South Rockwood, MI on sheet 4 of Sub-No. 4.

[FR Doc. 81-24690 Filed 8-24-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions)

we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–234

Decided: August 18, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 59501 (Sub-4), filed August 6, 1981. Applicant: E & L TRUCKING COMPANY, 117 Webster St., Pawtucket, RI 02861. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives), between points in RI, MA, CT, NH and ME.

MC 143110 (Sub-17), filed August 6, 1981. Applicant: K AND B EXPRESS, INC., 1410 Pinewood Street, Rahway, NJ 07065. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08837, (201) 494–8765. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Frank Bilotti, d/b/a FEB Freight Systems, of Rahway, NJ.

MC 144630 (Sub-59), filed August 6, 1981. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *metal products and machinery*, between the facilities of Carrier Corporation and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147870 (Sub-2), filed April 28, 1981, and previously noticed in FR issue of May 21, 1981. Applicant: MEMPHIS LEASING COMPANY, INC., 814 Florida St., Memphis, TN 38101. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting *metal products*, between the facilities used by Waterloo Industries, Inc., at points in AL, AR, IA, IL, IN, KY, LA, MS, MO, and TN, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KY, LA, MS, MO, and TN.

Note.—This republication clarifies the territorial description.

Volume No. OPY–2–156

Decided: August 17, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 111432 (Sub-19), filed August 7, 1981. Applicant: FRANK J. SIBR & SONS, INC., 5240 West 123rd Place, Alsip, IL 60658. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, (217) 753–3925. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Celanese Chemical Company, Inc., of Dallas, TX.

MC 120813 (Sub-3), filed August 3, 1981. Applicant: HUCKABEE HOUND, INC. P.O. Box 357, Cayce, SC 29033. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, 803–288–6000. Transporting *general commodities* (except classes A and B explosives), between points in Chatham, Columbia, and Richmond Counties, GA, Mecklenburg County, NC, and points in SC. Condition: Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration No. MC–120813 Sub 1, issued January 14, 1971.

MC 140373 (Sub-3), filed August 3, 1981. Applicant: COOK TRUCKING SERVICE, INC., 305 So. Harbor Blvd., Fullerton, CA 92632. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Transporting (1) *food and related products*, (2) *carpet and carpet padding*, and (3) *materials, equipment, and supplies* dealt in or used by the tire recapping industry, between points in CA and AZ.

MC 143243 (Sub-3), filed August 6, 1981. Applicant: LINTON TRUCKING, INC., 114 Ewing St., Seymour, IN 47274. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO, and its subsidiaries.

MC 144513 (Sub-21), filed August 6, 1981. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *metal products*, between Detroit, MI, Chicago, IL, Los Angeles, CA, points in Ostego County, MI, Palm Beach County, FL, Warren County, PA, Bibb County, GA, Marion County, MO, and Hancock County, WV, on the one hand, and, on the other, points in the U.S.

MC 144822 (Sub-6), filed August 7, 1981. Applicant: WINTZ TRANSPORTATION CO., 1706 American National Bank Bldg., St. Paul, MN 55101. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under a continuing contract(s) with Control Data Corporation, of Minneapolis, MN.

MC 144882 (Sub-3), filed August 10, 1981. Applicant: STATEWIDE DISTRIBUTION SERVICES, INC., P.O. Box 58926, Vernon, CA 90058. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, 213–483–4700. Transporting *pulp, paper and related products, plastic and plastic products*, and *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 146153 (Sub-3), filed August 7, 1981. Applicant: HOWARD KIRKHAM, d.b.a. H & H TRUCK SERVICE, Rte. 9, Box 88, Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 7406, Paducah, KY 42001, 502–442–5442. Transporting (1) *food and related products*, between points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, SD, TN, TX, and

WI, and (2) *limestone, barytes, and clay*, between points in Covington County, AL, and Barrow County, GA, on the one hand, and, on the other, points in IL, KY, MN, and OH.

MC 146853 (Sub-8), filed August 7, 1981. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Rte. 1, Runnells, IA 50237. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *rubber products*, between points in Polk County, IA, Tazewell County, IL, Kansas City, MO, and Minneapolis, MN, on the one hand, and, on the other, points in CO, IL, IN, NE, SD, and UT.

MC 146853 (Sub-9), filed August 10, 1981. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Rte. 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *cabinets and vanities* between points in Polk County, IA, on the one hand, and, on the other, points in Pittsburg County, OK, Schuylkill County, PA, King County, WA, and points in CO, IL, KS, MN, MO, ND, NE, WI and WY.

MC 147712 (Sub-33), filed August 5, 1981. Applicant: MID-WESTERN TRANSPORT, INC., 14625 Carmenita Rd., Norwalk, CA 90560. Representative: Joseph Fazio (same address as applicant), (213) 921–7674. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of seeds, between points in Fresno County, CA, on the one hand, and, on the other, points in the U.S.

MC 152762 (Sub-1), filed August 7, 1981. Applicant: CHARRON TRANSPORT LIMITED, 390 Colborne St., R. R. #4, Chatham, Ontario, Canada N7M 5J4. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962–6492. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under a continuing contract(s) with Libby McNeill & Libby of Canada, a division of Nestle Enterprises Limited of Chatham, Ontario, Canada.

MC 152763 (Sub-4), filed August 6, 1981. Applicant: EXPRESSCO, INC., 105 Rhine St., Madison, TN 37115. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, 615–244–8100. Transporting *forest products and lumber and related products*, between points in CA, OR, and ID, on the one hand, and, on the other, those points in the U.S., in and east of MT, WY, CO, and NM.

MC 156893 (Sub–1), filed August 10, 1981. Applicant: KANSAS CITY COLD STORAGE DISTRIBUTION, INC., 500 East 3rd, Kansas City, MO 64106. Representative: Patricia F. Scott, 20 East Franklin, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *such commodities* as are dealt in or used by distributors of foodstuffs between Kansas City, MO, on the hand, and, on the other, points in AR, CO, IA, IL, KY, KS, MN, MO, NE, OK, TN and TX.

MC 157602, filed August 7, 1981. Applicant: DAVID TOURS, 6530 Horrocks St., Philadelphia, PA 19149. Representative: David Benedict (same address as applicant), 215–535–7210. As a *broker*, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in PA and NJ, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–2–159

Decided: August 18, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 28813 (Sub–25), filed August 4, 1981. Applicant: MOTOR EXPRESS, INC., OF INDIANA, 1440 West 34th Street, Chicago, IL 60608. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209, (703) 522–0900. Over *regular routes*, transporting *general commodities* (except classes A and B explosives), (1) between Cincinnati, OH, and Toledo, OH, over interstate Hwy 75, (2) between Cincinnati, OH, and Cleveland, OH, over Interstate Hwy 71, (3) between Indianapolis, IN, and Bridgeport, OH, over Interstate Hwy 70, (4) between Evansville, IN, and junction U.S. Hwys 41 and 52, over U.S. Hwy 41, (5) between Evansville, IN, and Indianapolis, IN: from Evansville over IN Hwy 57 to junction IN Hwy 67, then over IN Hwy 67 to Indianapolis, and return over the same route, (6) between Evansville, IN, and Louisville, KY: from Evansville over U.S. Hwy 41 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville, and return over the same route, and (7) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71. Service is authorized at all intermediate points, and, as off-route points, all other points in OH and IN, in Lake, McHenry, Boone, Winnebago, Kans, DeKalb, Ogle, Will, Kendall, LaSalle, Kankakee, and Grundy Counties, IL; and in Sheboyan, Fond du Lac, Ozaukee, Washington, Dodge, Waukesha, Jefferson, Dane, Racine, Walworth, Rock, and Kenosha Counties, WI.

Note.—Applicant indicates intention to tack with its existing authority.

MC 39973 (Sub-7), filed August 6, 1981. Applicant: STANDARD TRUCKING COMPANY, 225 East Sixteenth St., Charlotte, NC 28230. Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036, (202) 783–8131. Over *regular routes*, transporting *general commodities*, (except classes A and B explosives), (1) between Reidsville, NC, and Arlington, VA, over U.S. Hwy 29, (2) between Henderson, NC, and Arlington, VA, over U.S. Hwy 1, (3) between Raleigh, NC, and Norfolk, VA, over U.S. Hwys 64 and 13, (4) between Virginia Beach, VA, and Covington, VA, over U.S. Hwy 60, (5) between Bristol, VA, and Winchester, VA, over U.S. Hwy 11, (6) between Stoneville, NC, and Covington, VA, over U.S. Hwy 220, and (7) between Durham, NC, and Lynchburg, VA, over U.S. Hwy 501, serving all intermediate points in routes (1) through (7) above, and all off-route points in VA.

MC 139112 (Sub-24), filed August 10, 1981. Applicant: CALEX EXPRESS, INC., Route 29, R.D. 2, Hunlock Creek, PA 18621. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Northeastern Pennsylvania Shippers Cooperative Association, Inc. (NEPSCA), of Dunmore, PA.

MC 140313 (Sub-12), filed August 10, 1981. Applicant: VIKING INTERNATIONAL INC., 421 S.W. 152nd, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 288–3807. Transporting *general commodities* (except classes A and B explosives), between points in WA, OR and CA, on the one hand, and, on the other, points in the U.S.

MC 145552 (Sub-1), filed August 7, 1981. Applicant: HEDGE & HERBERG, INC., Lyon & Washington, P.O. Box 98, Big Stone City, SD 57216. Representative: Gayle E. Hedge (same address as applicant), (605) 862–8143. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Big Stone Inc., of Chaska, MN.

MC 152383 (Sub-3), filed July 28, 1981. Applicant: C.C.M. ENTERPRISES, INC., Suite 40, 27 Produce Drive, Cincinnati, OH 45224. Representative: John R. Mateyko (same address as applicant), 513–621–7568. Transporting (1) *metal products*, between Cincinnati, OH, and points in Montgomery and Butler Counties, OH, on the one hand, and, on

the other, points in SD, ND, IA, CT, RI, CO, WY, NJ, PA, WV, OH, IN, IL, MI, MN, KS, OK, MO, KY, and those in NY south of NY Hwy 52, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of grease, between points in Will and Cook Counties, IL, and Alleghany and Butler Counties, PA.

MC 155412, filed August 6, 1981. Applicant: INLAND WATERS POLLUTION CONTROL, INC., 4544 Webster, Ecorse, MI 48229. Representative: Everett Shively (same address as applicant), (313) 383–6310.Transporting *industrial waste including hazardous waste and reclaimed or recycled products,* between points in the U.S. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of hazardous materials, it shall be limited to a period expiring 5 years from its date of issuance.

MC 155992, filed August 12, 1981. Applicant: B. J. LEBEL TRUCKING, P.O. Box 256, Val Therese, ONT. Canada POM 3BO. Representative: Michael D. Combs, P.O. Box 473, Gaylord, MI 49735, (517) 732–7536. Transporting *lumber,* between points in the U.S., under continuing contract(s) with Georgia-Pacific, Inc., of Atlanta, GA.

MC 156223, filed August 11, 1981. Applicant: MILWRICK TRUCKING SERVICE, 3530 North Durfee, Pico Rivera, CA 90660. Representative: Gene Milwrick (same address as applicant), 213–699–0536.Transporting *general commodities* between points in the U.S., under continuing contract(s) with (a) Wisconsin Shippers Association, Inc., of Milwaukee, WI, (b) Del Amo Shippers Association, Inc., of Seal Beach, CA, and (c) Co-operative Shippers, Inc., of Chicago, IL. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 157633, filed August 10, 1981. Applicant: FARIBAULT TRANSPORTATION CO., INC., Box 163, 2615 1st Avenue NW., Faribault, MN 55021. Representative: Thomas E. Merrill (same as applicant), (507) 334–5121.Transporting *passengers and their baggage, in the same vehicle with passengers,* in charter and special operations, beginning and ending at points in MN, and extending to points in the U.S.

MC 157643 filed August 11, 1981. Applicant: CAPITOL TRAILWAYS TOURS, INC., 1061 South Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108, 717–232–6000. As a *broker,* in Dauphin and Cumberland Counties, PA, in arranging for the transportation of *passengers and their baggage,* by motor vehicle, between points in the U.S.

Volume No. OPY–4–322

Decided: August 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 104896 (Sub-67), filed July 24, 1981. Applicant: WOMELDORF, INC., P.O. Box 829, DuBois, PA 15801. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090.Transporting *clay, concrete, glass or stone products,* between the facilities of PPG Industiries, Inc., at points in IL, IN, MD, MN, MO, OH, and PA, on the one hand, and, on the other, those points in and east of MN, IA, MO, AR, and LA.

MC 111196 (Sub-33), filed August 5, 1981. Applicant: R. KUNTZMAN, INC., 1805 W. State St., Alliance, OH 44601. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transportation *general commodities,* except A and B explosives, between points in OH.

MC 110746 (Sub-3), filed August 5, 1981. Applicant: PARKS MOVING & STORAGE, INC., 740 Commonwealth Dr., Warrendale, PA 15086. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *bakery goods,* between Louisville, KY, on the one hand, and, on the other, points in Allegheny, Fayette, Greene, Washington, Somerset, Westmoreland and Butler Counties, PA, Monongalia and Preston Counties, WV, and Garrett County, MD.

MC 136146 (Sub-4), filed August 5, 1981. Applicant: EMPIRE WAREHOUSE, INC., 3141 S. Platte River Dr., Englewood, CO 801100. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *food and related products,* between Denver, CO, on the one hand, and, on the other, points in CO, WY, MT, UT, ID, NM, and AZ.

MC 148866 (Sub-5), filed August 6, 1981. Applicant: GILBERT F. & RAYMOND L. GUSTAFSON d.b.a. G & R GUSTAFSON TRANSPORT CO., 102 No. Giffin St., Grant Park, IL 60940. Representative: Abraham A. Diamond, 29 So. LaSalle St, Chicago, IL 60603, (312) 236–0548. Transporting *food and related products,* between North Sioux City, SD, Richmond, VA, and Tacoma, WA, and points in Calhoun County, MI, on the one hand, and, on the other, points in the U.S.

MC 152386, filed August 5, 1981. Applicant: LACINDA LYNN, INC., d.b.a. LADD TRUCKING CO., P.O. Box 1101, Canadian, TX 79014. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *Mercer commodities,* between points in Hamphill, Wheeler, Lipscomb, Potter, Ochiltree, Collingsworth, Gray, Roberts, and Hansord Counties, TX, on the one hand, and, on the other, points in OK, KS, and NM.

MC 153996 (Sub-2), filed August 6, 1981. Applicant: FAUCHER BROS. CARTAGE CO., 223 W.Ontario St., Chicago, IL 60612. Representative: William D. Brejcha, 10 S. LaSalle St., No. 1600, Chicago, IL 60603, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, MI, and WI.

Volume No. OPY–4–324

Decided: August 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 67646 (Sub-102), filed July 20, 1981, previously, noticed in the **Federal Register** issue of August 6, 1981, and republished this issue. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant), (717) 790–8543. Transporting *general commodities,* (except classes A and B explosives), serving points in Carroll County, IL, and Fayette County, IA, as off-route points in connection with carriers presently authorized regular-route operation.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 123876 (Sub-5), filed August 3, 1981. Applicant: PRATT TRANSPORTATION, INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, 500 the Atrium, 1200 N Street, P.O. Box 82028, Lincoln, NE 68501. (402) 475–6761. Transporting *petroleum products,* between points in NE, IA, MN, CO, WY and SD.

MC 123876 (Sub-4), filed August 3, 1981. Applicant: PRATT TRANSPORTATION, INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *flour,* between points in Dodge and Douglas Counties, NE, on the one hand, and, on the other, points in IA.

MC 147156 (Sub-2), filed August 3, 1981. Applicant: MANUFACTURER'S

MOBILE HOMES TRANSPORT, INC., P.O. Box 1519, Athens, TX 75751. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768, (512) 476–6083. Transporting (1) *buildings, in sections mounted on wheeled undercarriages* between points in Ellis County, TX, on the one hand, and, on the other, points in AR, LA, OK, and NM and (2) *trailers designed to be drawn by passenger automobiles*, between points in Ellis County, TX, on the one hand, and, on the other, points in AR, and NM.

MC 149206 (Sub-9), filed July 27, 1981. Applicant: BREWTON EXPRESS, INC., P.O. Drawer 1375, Winnfield, LA 71483. Representative: Brain E. Brewton (same address as applicant), (318) 628–3156. Transporting *building and construction materials, machinery, metal products, and mercer commodities*, (1) between points in and west of the States of WI, IL, MO, AR, and LA, and (2) between points in and west of the States of WI, IL, MO, AR, and LA, on the one hand, and, on the other, points in the U.S.

MC 151566 (Sub-6), filed August 3, 1981. Applicant: PERRY TRANSPORT, INC., 14375– 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel (same address as applicant), (616) 842–3550. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Donnelly Mirrors, Inc., of Holland, MI.

MC 152896, filed August 4, 1981. Applicant: ROY NEAL WHEELER, SR., ROY NEAL WHEELER, JR., AND PHILIP VERNE WHEELER, d.b.a. WHEELER & SONS TRUCKING, 1607 Oro Dam Blvd. West, Oroville, CA 95965. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *wood products*, between points in CA, on the one hand, and, on the other, points in TX, LA, MT, FL, ID, OR, WA, CO, AZ, IL, IN, NM, and OK.

MC 153306, filed August 4, 1981. Applicant: GENERAL FREIGHT SYSTEMS, LTD., 9710 W. Loomis Rd., Franklin, WI 53132. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *metal products*, between points in the U.S., under continuing contract(s) with (1) A.M. Castle & Co., Inc., d/b/a Castle Metals, of Wauwatosa, WI, (2) 4441 Bldg. Corp., and (3) Lake Shore Steel, Inc., both of Chicago, IL.

MC 154726 (Sub-1), filed August 3, 1981. Applicant: WALTER M. KOFOD d.b.a. THOR KOFOD TRUCKING, 100 Logan St., Rio Vista, CA 94571. Representative: Daniel W. Baker, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage and transmission and distribution geothermal energy, natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in CA, OR, WA, NV, ID, UT, and WY.

Volume No. OPY–4–327

Decided: August 19, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 125076 (Sub-9), filed August 10, 1981. Applicant: SUPERIOR BUS SERVICE, INCORPORATED T/A TRAVELINES UNITED, Building No. 11, Suite 101, Koger Executive Center, Norfolk, VA 23502. Representative: John B. Swain, 2705 Fincham Court, Chesapeake, VA 23324, (804) 545–4313. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip and charter and special operations, beginning and ending at Norfolk, Chesapeake, Virginia Beach, Portsmouth, Hampton, Newport News, and Suffolk, VA, and points in Northampton and Accomack Counties, VA, and Bertie, Currituck, and Pasquotank Counties, NC, and extending to points in the U.S. (including Alaska but excluding Hawaii).

MC 136916 (Sub-26), filed August 10, 1981. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 383–3640. Transporting *salt and salt products*, between Watkins Glen and Retsof, NY, on the one hand, and, on the other, New York, NY, those points in Westchester, Nassau, and Suffolk Counties, NY, and points in PA, NJ, DE, MD, CT, and MA.

MC 149546 (Sub-21), filed August 10, 1981. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commdities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Andersen Corporation, of Baypoint, MN.

MC 151916 (Sub-3), filed August 5, 1981. Applicant: BARON TRANSPORT, INC., One Perimeter Way, Suite 455, Altlanta, GA 30339. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, DC. 20006, (202) 296–2550. Transporting (1) *food and related products*, and (2) *such commodities* as are dealt in by food and department stores, between points in AL, CT, GA, IL, MA, MD, NC, NJ, NY, PA, RI, SC, TN, VA, and WV, on the one hand, and, on the other, points in CA, NV, WA, and those points in the U.S. in and east of WI, IL, MO, OK, and TX.

MC 157656 F, filed August 10, 1981. Applicant: J. B. CONSOLIDATORS, INC., 1022 Woodward Avenue, Charlotte, NC 28206. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such merchandise as is dealt in by retail department stores*, between Mecklenburg County, NC on the one hand, and, on the other, points in NC, SC, GA, TN, and VA.

Volume No. OPY–4–329

Decided: August 19, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 157657, filed August 4, 1981. Applicant: RIVERSIDE TRANSPORTATION, INC., Tredegar St., P.O. Box 2218, Richmond, VA 23217. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting (1) *pulp, paper and related products*, and (2) *rubber and plastic products*, between points in the U.S., under continuing contract(s) with James River-Pepperell, Inc., of East Peperell, MA.

Note.—This application is directly related to MC–F14674, published in this same **Federal Register** issue.

Volume No. OPY–4–330

Decided: August 19, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC–F 14674, filed August 4, 1981. JAMES RIVER PAPER COMPANY and JAMES RIVER CORPORATION OF VIRGINIA, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217, seek consent to continuance in control of RIVERSIDE TRANSPORTATION, INC., Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217 upon commencement by RIVERSIDE TRANSPORTATION, INC. of operations as a motor contract carrier of pulp, paper and related products and rubber and plastic products between points in the United States. JAMES RIVER PAPER COMPANY, through the ownership of all outstanding stock, presently controls RIVERSIDE TRANSPORTATION, INC., whose application for permanent motor contract carriage authority to transport

pulp, paper and related products and rubber and plastic products between points in the United States has been filed simultaneoulsy herewith. Since JAMES RIVER PAPER COMPANY is in turn a wholly-owned subsidiary of JAMES RIVER CORPORATION OF VIRGINIA, the latter indirectly controls RIVERSIDE TRANSPORTATION, INC. and has therefore joined in this application for consent to continuance in control. JAMES RIVER CORPORATION OF VIRGINIA presently owns all of the stock of Berlin Mills Railway, Inc., a Class III Switching and Terminal Railroad.

Note.—This application is directly related to MC-157657, published in the same Federal Register issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-24691 Filed 8-24-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-157

Decided: August 14, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 129572 (Sub-8), filed August 10, 1981. Applicant: ANDICO, INC., P.O. Box 1463, Provo, UT 84601. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531-1300.Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in U.S.

MC 141742 (Sub-17), filed August 7, 1981. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Ronald C. Chauvel, 100 Pine St., Ste 2550, San Francisco, CA 94111 (415) 986-1414. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munition), between points in the U.S.

MC 157582, filed August 6, 1981. Applicant: WILLIAM DOERR, 1764 Main St., Minden City, MI 48456. Representative: Joseph Van Dalen (same as applicant) (517) 864-3400. Transporting *food and other edible products and byproducts intended for huan consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle, between points in the U.S.

Volume No. OP1-233

Decided: August 17, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 157531 (Sub-1), filed August 5, 1981. Applicant: FREEDOM TRUCKING, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Harry Hyaduck (same address as applicant) (404) 792-0834. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP1-235

Decided: August 18, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 157580, filed August 6, 1981. Applicant: DAVID L. JONES, d.b.a. PANTHER TRANSPORT, 3840 So. 177th, Seattle, WA 98188 (206) 228-3807. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. (206) 228-3807. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-3-144

Decided: August 17, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and William. (Member Fisher not participating.)

MC 135605 (Sub-20), filed August 6, 1981. Applicant: WILKINSON TRANSPORT, INC., Highway 85 South, Barton, AR 73212. Representative: Billy

L. Wilkinson (same address as applicant) (501) 572–9689. Transporting *general commodities* (except classes A and B explosives) between Hamburg, AR, on the other, point in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 157394, filed July 29, 1981. Applicant: DONALD MAGGART d.b.a. MAGGART TRUCKING, Box 41, Browning, MO 64630. Representative: (Same address as applicant) (816) 946–4573. Transporting *general commodities* (except classes A and B explosives), between Brashear, Hurdland, Edina, Knox City, LaBelle, Lewistown, Tolona, Ewing, Maywood, Taylor, Unionville, Lemon, Pollock, Cora, Milan, Browning, Purdin, and Linneus, MO, Bradford, Astoria, Easton, Tierra, Mason City, and New Holland, IL, Shubert, NE, Keystone, SD, Varco, and Downer, MN, Drakesboro, Browder, Beechmont, Penrod, Dunmor, Diamond Springs, Lewisburg, Edwards, Epleys, and Danby, KY, and Clintonville, Big Falls, Marion, Split Rock, Tigerton, Whitcomb, and Whittenberg, WI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 157495, filed August 3, 1981. Applicant: JAMES A BRONSON, INC., d.b.a. GLADISH & ASSOCIATES, Melbourne House-Suite 808, 1511 Third Ave., Seattle, WA 98101. Representative: Arthur Nolan (Same address as applicant) (206) 623–1023. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 157505, filed August 4, 1981. Applicant: ROBERT H. GARCIA, 1051 Echo Ave., Oxnard, CA 93030. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers*, and *other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157524, filed August 3, 1981. Applicant: TRADESHOW TRANSPORTATION BROKERAGE CORP., 800 West Lunt Ave., Schaumburg, IL 60193. Representative: Volker R. Volpe (same address as applicant) (312) 351–8188. As a *broker of general commodities*, between points in the U.S.

Volume No. OPY–3–148

Decided: August 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

MC 117465 (Sub-23), filed August 6, 1981. Applicant: BEAVER EXPRESS SERVICE, INC., P.O. Box 1147, 2120 Webster Ave., Woodward, OK 73802. Representative: Max G. Morgan, P.O. Box 1540, 1503 E. 19th St., Edmond, OK 73034 (405) 348–7700. 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 141745 (Sub-2), filed August 10, 1981. Applicant: ROBERT F. RANDGAARD d.b.a. BOB'S TRUCKING, 2610 E. Whitton, Phoenix, AZ 85016. Representative: Andrew V. Baylor, 337 E. Elm St. Phoenix, AZ 85012 (602) 274–5146. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157605, filed August 7, 1981. Applicant: JOE S. ARNOLD, VIRGINA D. ARNOLD, and JOE B. ARNOLD, d.b.a. ARNOLD SPREADING SERVICE, Route 7, Box 57, Greensburg, IN 47240. Representative: Joe S. Arnold (same address as applicant) (812) 663–3961. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No OPY–4–323

Decided: August 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 126516 (Sub-8), filed August 6, 1981. Applicant: SKYLINE MOTORS AIR CARGO, INC., Bridge St. at Riverside Dr., Beaver, PA 15009. Representative: Russell S. Bernhard, 1625 K St., N.W., Washington, DC 20006. 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 157576, filed August 6, 1981. Applicant: FOUR SEASONS MESSENGER SERVICE, INC., 450 Great Neck Rd., Great Neck, NY 11021. Representative: John Atai (Same address as applicant) (516) 487–5000. 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. OPY–4–328

Decided: August 19, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 15756, filed August 3, 1981. Applicant: EXECUTIVE VAN LINES, INC., 8234 N. MacArthur, Oklahoma City, OK 73132. Representative: Robert J. Gallagher, 100 Connecticut Ave., N.W. Suite 1200, Washington, D.C. 20036 (202) 785–0024. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, Room 5331.

MC 157666, filed August 12, 1981. Applicant: GARY L. TESKEY d.b.a. GTS TRANSPORTATION, 1346 E. Taylor Street, San Jose, Ca 95133. Representative: Gray L. Teskey (Same address as applicant) (408) 286–3051. As a broker of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–24753 Filed 8–24–81; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Decision Volume No. 433]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broader grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of

the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 107727 (Sub-32) (Republication), filed January 7, 1981; published in the Federal Register issue of January 29, 1981; and republished this issue. Applicant: ALAMO EXPRESS, INC., 6013 Rittiman Plaza, San Antonio, TX 78218. Representative: James M. Doherty, P.O. Box 1945, Austin, TX 78767. A Decision of the Commission, Review Board 3, decided May 14, 1981 and finds that performance by the applicant as *a common carrier*, by motor vehicle, in interstate or foreign commerce, *over regular routes*, transporting *general commodities* (except classes A and B explosives), (1) between San Antonio, TX, and Memphis, TN: from San Antonio over Interstate Hwys 35 and 35E to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, serving all intermediate points; (2) between Victoria, TX, and junction U.S. Hwy 77 and Interstate Hwy 35, at or near Waco, TX, over U.S. Hwy 77, serving all intermediate points; (3) between Houston, TX, and junction U.S. Hwy 59 and Interstate Hwy 30: from Houston over U.S. Hwy 59 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, and return over the same route, serving all intermediate points; and (4) between junction Interstate Hwy 35 and U.S. Hwy 79 and junction U.S. Hwy 79 and Interstate Hwy 40, at or near West Memphis, AR, over U.S. Hwy 79, as an alternate route for operating convenience only, serving no intermediate points; will serve a useful public purpose, responsive to a public demand or need; that the applicant is fit, willing, and able properly to perform the granted service; and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to reflect the route descriptions as granted.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-24752 Filed 8-24-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Krock, Joyce, and Dowell.

MC-FC-79233. By decision of July 17, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to MITCHELL & SONS MOVING AND STORAGE, INC., of Ashland, OH, of Certificate No. MC-65733 issued June 26, 1959 to SHEARER AND SON, INC., of Canton, OH, authorizing the transportation of *household goods*, as defined by the Commission, between Canton, OH, on the one hand, and, on the other, points in Pennsylvania. Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017, (614) 889-2531.

MC-FC-79252. By decision of July 16, 1981, issued under 409 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to VALLEY EXPRESS, INC., of Glyndn, MN of Certificate No. MC-143651 (Sub-No. 15F) issued to HI-LO TRANSPORT, INC., of Wall Lake, IA authorizing the transportation of *tree or weed killing compounds* in containers between points in Iowa, Illinois, Indiana, Kansas, Minnesota, Missouri, North Dakota, Nebraska, South Dakota and Wisconsin. Representative: Alan Foss, 502 First Nat'l Bank Bldg., Fargo, ND 58126. TA lease is sought. Transferee is a carrier.

MC-FC-79254. By decision of July 16, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to PHILADELPHIA SHIP MAINTENANCE COMPANY, INC., d.b.a. PHILLYSHIP of Philadelphia, PA of Certificate No. MC-139955 (Sub-No. 1) issued to RELIANCE SECURITY SERVICE, INC., of Philadelphia, PA authorizing: the transportation of *ship machinery parts and ship stores* (except those which because of size or weight require the use of special equipment), from Philadelphia, PA, to Portland, Maine, Providence, RI, New Haven, CT, New York, NY, Baltimore, MD, and Norfolk, VA, with no transportation for compensation on return except as otherwise authorized. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. TA lease is not sought. Transferee is not a carrier.

MC-FC-79265. By decision of July 17, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 3 approved the transfer to JANA TRUCKING, INC. of Ashtabula, OH, of Certificate MC-141736 issued January 20, 1978, to JAMES A. JANA d.b.a. JANA CARTAGE COMPANY, of Ashtabula, OH, authorizing the transportation of *general commodities* (except those of

unusual value, classes A and B explosives, household goods as defined by Commission, commodities in bulk, those requiring special equipment, and salt), between points in Ashtabula County, OH, restricted to the transportation of shipments received from or delivered to connecting carriers at (the city of) Ashtabula, Ohio. Representative: Michael Spurlock, 275 E. State Street, Columbus, OH 43215.

Notes.—Application for TA has not been filed. Transferee is a non-carrier.

MC–FC–79266. By decsion of July 16, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to KERR MOTOR LINES, INC. of Certificate No. MC–97879 (Sub-No. 3) issued July 6, 1981 to BAB TRANSFER, INC. authorizing the transportation of (1) *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 Albany, NY, on the one hand, and, on the other, points in Massachusetts, (2) *paper, paper products, and materials, supplies, and equipment*, used in the manufacture of paper and paper products, between points in Massachusetts, on the one hand, and, on the other, Nashua, Bennington, VT, Bloomfield, Elizabeth, and Hoboken, NJ, points in CT, and points in that part of New York east of a line beginning at the United States-Canada Boundary line and extending along NY Hwy 374 to Chateaugay and then along a line from Chateaugay through Amsterdam and Middletown, NY, to the New York-New Jersey State line at a point near Greenwood Lake, NY. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street, Springfield, MA 01103.

Note.—An application for temporary leave has been filed. This applicationis directly-related to No. MC–125688 (Sub–No. 7). No. MC–126588 (Sub–No. 7) is published in another section of this **Federal Register** issue.

MC–FC–79268. By decision of July 24, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to EQUIPMENT TRANSPORTATION SERVICE, INC., of Camarillo, CA, of Permit No. MC–139234 Subs 1, 3, and 6 issued to BRUCE'S TRANSPORT SERVICE, INC., of Ventura, CA, authorizing (a) Sub-No. 1 to haul *oilfield equipment, materials and supplies used in drilling, exploration and productions of oil*, between points in Ventura County, CA, on the one hand, and, on the other, Los Angeles International Airport and points in the Los Angeles Harbor Commercial Zone, CA under continuing contracts with National Supply Division, Armco Steel Corporation, Otis Engineering Corporation, Schlumberger Well Service, Vetco Offshore, Inc., (b) Sub-No. 3 to move *oilfield and offshore equipment and materials and supplies*, used in the drilling, exploration and production of oil, between Ventura and Los Angeles, CA, on the one hand, and, on the other, Beaumont, TX, and points in Harris County, TX, under continuing contracts with Vetco Offshore, Inc., of Ventura, CA, and (c) Sub-No. 6 to move *dry barium sulfate*, in bulk between points in CA, OK, WA, NV, UT, AR, NM, MT, CO, ID, and WY under a continuing contract(s) with IMCO Services, a division of Halliburton Company of Long Beach, CA. Representative: William D. Taylor, 1100 Pire St., Suite 2550, San Francisco, CA 94111.

Notes.—Transferee is not a carrier. TA lease is not sought.

MC–FC–79270. By decision of July 17, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to AnHAY, INC., of Birmingham, AL, of Certificate No. MC-126287 and MC–126287 (Sub-No. 2) issued to WICKER TRANSFER, INC., of Selma, AL, authorizing generally a *household goods* service between points in Alabama. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203.

Notes.—TA lease is not sought. Transferee is not a carrier.

MC–FC–79276. By decision of August 10, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Harris Motor Express, Inc. of Certificate No. MC–143516 (Sub-No. 4F) issued November 19, 1980 to Rail Highway Transportation, Inc., of Dayton, OH, authorizing the transportation, over irregular routes, of *general commodities* (except those of unusual value, Classes A and B explosives, and commodities in bulk), between Cincinnati, OH, on the one hand, and, on the other, points in Ohio.

Note.—Harris Motor Express, Inc., holds authority in Certificate No. MC–146614 (Sub-No. 2), issued June 12, 1981, to transport similar commodities between points in from counties in Ohio, including Cincinnati, OH, and the counties in Kentucky, on the one hand, and, on the other, points in seven states, including Ohio. In Docket No. MC–146614 (Sub-No. 4), which is directly related to MC–FC–79276 and is being published in this issue of the **Federal Register**, Harris Motor Express, Inc., also seeks authority to operate between all points in Ohio, on the one hand, and, on the other, points in the seven states. That application will be processed pursuant to 49 U.S.C. 10922 and the Commission's rules and regulations thereunder. Representatives is: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215.

MC–FC–79287. By decision of August 3, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to JANET KREBS McCAMLEY AND MADELINE T. KREBS, A PARTNERSHIP, d.b.a. KREBS BROTHERS TRANSFER COMPANY of Certificate No. MC–21567 issued November 9, 1973 to ROBERT KREBS AND JANET KREBS McCAMLEY, A PARTNERSHIP, d.b.a. KREBS BROTHERS TRANSFER COMPANY authorizing the transportation of (1) *general commodities*, between Clearfield, PA, and Curwensville, PA, over U.S. Hwy 322, serving no intermediate points; (2) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between Clearfield, PA, and Houtzdale and Sandy Ridge, PA, serving all intermediate points and the off-route point of Wallaceton, PA; from Clearfield over U.S. Hwy 322 to Philipsburg, PA, then over PA Hwy 53 via Osceola, PA, to Houtzdale, also from Clearfield as specified above to Osceola Mills, then over PA Hwy 970 to Sandy Ridge, and return over the same route, subjected to various railroad restrictions, (3) *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 Clearfield, DuBois, and Philipsburg, PA, to points in Clearfield, Centre and Jefferson Counties, to Tyrone, PA, (4) *household goods* as defined by the Commission, between points in Clearfield, Jefferson, and Centre Counties, PA, on the one hand, and on the other, points in Maryland, Virginia, Michigan, Kentucky, Indiana, Ohio, West Virginia, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Delaware, and the District of Columbia. Representative: Carl A. Berlin, Jr., 15 North Front Street, Clearfield, PA 16830.

Notes.—(1) Transferee is a non-carrier. (2) TA has not been filed.

MC–FC–79279. By decision of 8/10/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review board Number 3 approved the transfer to J.A.R. TRUCKING, INC., of Cleveland, OH, of Certificate No. MC–58561 (Sub-No. 2F), issued 3/30/81, to

STEEL TRANSPORT, INC., of Cleveland, OH, authorizing the transportation of (1) *iron and steel articles* between points in Ohio, on the one hand, and on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Pennsylvania, and West Virginia, and (2) *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Cleveland, OH, on the one hand, and, on the other, points in Ohio. Representative: Stephen J. Habash, Attorney, 100 East Broad Street, Columbus, OH 43215, (614) 228–1541. TA has not been filed. Transferee presently holds no authority from the Commission.

MC–FC–79280. By decision of 8/3/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board number 3 approved the transfer to ALEXANDER COACH LINES, INC., of Welland, Ontario, CN, of Certificate No. MC–146527 (Sub-No. 1F), issued 12/12/80, to LIFTLOCK COACH LINES LIMITED, of Peterborough, Ontario, CN, which authorizes the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada and extending to points in the United States (including Alaska, but excluding Hawaii). Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202.

Notes.—TA application has not been filed. Transferee is a non-carrier.

MC–FC–79282. By decision of 8/10/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to DE LEON BROTHER MOVING & STORAGE, INC., of Elmhurst, NY, of Certificate No. MC–30871 issued 1/10/74 to PAUL L. KROHN, ESQ., TRUSTEE IN BANKRUPTCY OF MIKE KRASILOUSKY TRUCKING & MILLWRIGHT CO., INC., of Brooklyn, NY, authorizing the transportation of *household goods*, as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in Maine, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, and Illinois. Representative: Piken & Piken, P.C., 95—25 Queens Blvd., Rego Park, NY 11374. TA lease is not sought. Transferee is not a carrier.

MC–FC–79283. By decision of 8/5/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to H.M.D. TRANSPORT, INC., of Newbury, MA, of Certificate No. MC–15936 (Sub-No. 5) issued May 19, 1981 to SHEANS FREIGHT LINES, INC., of Medford, MA, authorizing the transportation of *such commodities* as are used by department stores and mail order and discount houses, between points in the United States. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181.

Notes.—(1) Transferee is a non-carrier. (2) No application for temporary authority has been filed.

MC–FC–79288. By decision of August 10, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TRANSPORTATION, INC. of Ottawa, KS of Certificates No. MC–139931 (Sub-No. 2) issued to MARVIN STROBEL, d.b.a. RICHMOND TRUCK LINE, of Richmond, KS authorizing: the transportation of dry urea, from the facilities utilized by Farmland Industries, Inc., located at or near Lawrence, KS, to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, South Dakota, and Texas. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. TA lease is sought. Transferee is a carrier.

MC–FC–79289. By decision of 8/10/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to EAST TEXAS REFRIGERATED EXPRESS, INC., of Grand Saline, TX, of Certificate No. MC–140376 issued 8/10/78 to J. T. ARNETT GRAIN CO., INC., of Corsicana, TX, authorizing the transportation of *bananas*, from Mobile, AL, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior movement by water. Representative is: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. TA has been filed. Transferee presently holds authority under Certificate No. MC–133095.

MC–FC–79286. By decision of 8/10/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to GALEN O. KING, d.b.a. G.O.K. TRUCKING, of Tiffin, OH of Certificate No. MC–146676 (Sub-No. 1) issued to BURKS TRUCKING, INC., of Old Fort, OH, authorizing the transportation of *fertilizer and fertilizer ingredients*, between the facilities of Ohio Farmers Grain and Supply Association, at or near Fostoria, OH, on the one hand, and, on the other, points in Indiana and Michigan. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. TA lease is not sought. Transferee is not a carrier.

MC–FC–79290. By decision of August 3, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Southwestern Carriers, Inc. of Certificate No. MC-144616 and (Sub-Nos. 2, 4, 8, 9, 10, 11, 12, 13, and 14), issued to Trucks, Inc. authorizing the transportation of (1) *meats, meat products, meat by products, and articles distributed by meat packaging 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) (a) from the facilities of John Morrell & Co. at or near Arkansas City and Wichita, KS, and El Paso, TX, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, (b) from the facilities of John Morrell & Co. at or near Sioux Falls, SD, Estherville and Sioux City, IA, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, (c) from the above named facility at or near Shreveport, LA, to points in Alabama, Florida, Georgia, Maryland, Mississippi, North Carolina, New York, New Jersey, Pennsylvania, South Carolina, Tennessee, and the District of Columbia, (d) from the above named facility at Shreveport, LA, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri, New Hampshire, Ohio, Rhode Island, Virginia and West Virginia, (e) from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to those points in the United States in and West of Montana, Wyoming, Colorado, Oklahoma, Arkansas and Louisiana, and (f) from Hereford, TX, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Arizona, California and the District of Columbia, (2) *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near (a) Fremont and Toledo, OH, (b) Holland, MI, and Pittsburgh, PA; to points in Texas, Oklahoma, and Kansas, (3) *foodstuffs*,

from points in Dallas County, TX, to points in Louisiana, Arkansas, Oklahoma, and New Mexico, (4) *foodstuffs* (except in bulk), from points in Adams, Cumberland, Dauphin, and Franklin Counties, PA, to points in Arkansas, Arizona, California, Louisiana, New Mexico, Oklahoma, and Texas and (5) *Shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 16112.

Notes.—(1) Transferee is a non-carrier. (2) No application for TA has been filed.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's general rules of practice (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). Persons submitted protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. 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. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that 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 properly 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 specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verfied statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

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.

Dated: August 17, 1981.

By the Commission, Review Board Number 3, Members Krock, Taylor, and Williams.

MC-146614 (Sub-4) Filed July 22, 1981. Applicant: HARRIS MOTOR EXPRESS, INC., 4261 Crawford St., Cincinnati, OH 45223. Representative: A Charles Tell, Suite 1800, 100 East Broad St., Columbus, OH. Authority has been granted to transport *general commodities* (except Classes A and B explosives), between points in Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania and West Virginia.

Note.—This application is directly related to Docket No. MC-FC-79276, Harris Motor Express, Inc., Transferee—Rail Highway Transportation, Inc., Transferor, the notice of which is being published concurrently in this issue of the **Federal Register**. In No. MC-FC-79276, Harris Motor Express, Inc., seeks to acquire authority to transport similar commodities between Cincinnati, OH, on the one hand, and, on the other, points in Ohio. It now holds authority in Certificate No. MC-146614 (Sub-No. 2), issued June 12, 1981, to transport similar commodities between points in four counties in Ohio and three counties in Kentucky, including Cincinnati, OH, on the one hand, and, on the other, points in seven States, including Ohio.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-24750 Filed 8-24-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Krock, Joyce and Dowell.

MC-FC-79230. By decision of June 26, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Karst Stage, Inc., of Bozeman, MT, of Certificate No. MC-52298 and (Sub-No. 3) issued to C.W. Sparks, d/b/a Karst's Stage, of Bozeman, MT (Lucille Sparks, Personal Representatives of the Estate of C. W. Sparks), authorizing: *Passengers and their baggage, and express, newspapers, and mail,* in the same vehicle with passengers, over regular routes, between Bozeman, MT and West Yellowstone, MT, and between Billings, MT, and Red Lodge, MT, serving named intermediate points, with incidental charter authority. Representative: Jerry L. Perkins, 511 North Wallace, Bozeman, MT 59715. TA lease is not sought. Transferee is not a carrier.

MC-FC-79238. By decision of July 13, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to HERITAGE SYSTEMS OF FORT WAYNE, INC., of Fort Wayne, IN, of Permit No. MC-143138 issued January 5, 1981, to BOHREN TRANSIT SYSTEMS, INC., of Fort Wayne, IN, authorizing the transportation of *employees of Consolidated Rail Corporation and their baggage,* between Fort Wayne, IN, on the one hand, and, on the other, points along Consolidated Rail Corporation, right of way in Illinois and Ohio. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240.

Note—Transferee is a non-carrier. Application for TA has not been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc 81-24749 Filed 8-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Volume No. OP1-238]

Motor Carrier; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 153880 (Republication) filed January 27, 1981, previously noticed in the **Federal Register** issue of February 18, 1981. Applicant: ANN CLEMENT, 225 Pine Ridge Dr., High Point, NC 27260. Representative: Ann Clement (Same address as above). A Decision by the Commission Division 2, Acting as an Appellate Division, decided April 9, 1981, and served April 14, 1981, finds on reopening and further consideration that applicant is authorized to operate as a broker, transporting at High Point, NC, in arranging for the transportation of *passengers and their baggage,* beginning and ending at points in the North Carolina counties of Alamance, Caswell, Davison, Davie, Forsyth, Guilford, Randolph, Rockingham, Rowan, Stokes, and Yadkin, and extending to points in the U.S., including Alaska & Hawaii. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle 14 U.S. Code, and the Commission's regulations. The purpose of this republication is to show actual authority granted.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-24748 Filed 8-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 148]

Motor Carriers; Restriction Removals Decision-Notice

Decided: August 20, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restiction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings:

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 31462 (Sub-28)X, filed August 11, 1981. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, TX 75146. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, D.C. 20036. Applicant seeks to remove restrictions from its Sub-No. 28 certificate by broadening the commodity description from household goods to "household goods and furniture and fixtures".

MC 32166 (Sub-18)X, filed August 6, 1981. Applicant: BRONAUGH MOTOR EXPRESS, INC., 1025 Nandino Blvd., Lexington, KY 40511. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Applicant seeks to remove restrictions in its lead and Sub-Nos. 6, 8, 10, 14, and 17 certificates to (1) broaden the commodity description by removing exceptions to general commodities (except classes A and B explosives) in the lead and Sub-No. 6, 8, 10, 14 and 17 certificates; (2) authorize service at intermediate points in connection with regular route operations (a) on U.S. Hwy 25 between Lexington, KY and a point five miles north of Berea, KY in the lead certificate, (b) on routes between Lexington, KY and Louisville, KY, Shakertown, KY and Lexington, KY, and Cincinnati, OH and Lexington, KY in Sub-No. 6, (c) on routes between Corbin, KY and Knoxville, TN in Sub-No. 8, (d) on routes between Cincinnati, OH and Knoxville, TN, Louisville, KY and Knoxville, TN, Louisville, KY and junction U.S. Hwy 150 and U.S. Hwy 25 near Mt. Vernon, KY, and Knoxville, TN and Corbin, KY in Sub-No. 10, and (e) on routes between Lexington, KY and Nashville, TN, Nashville, TN and junction of U.S. Hwy 150 and Boyle-Washington, KY county line, Nashville, TN and junction of Kentucky Hwy 80 and Laurel-Rockcastle, KY county line, and Louisville, KY and Cincinnati, OH in Sub-No. 14, and (3) remove restrictions (a) against service with

traffic originating, terminating, or interlined at Louisville, KY or Cincinnati, OH and commercial zones, on the one hand, and, on the other, traffic to or from Lexington, KY and commercial zone in Sub-No. 6, and against tacking the authority with existing authority, to perform the service, and (b) against service at Knoxville, TN and commercial zone with shipments originating at, destined to, or interchanged at Lexington and Louisville, KY and Cincinnati, OH and commercial zones in Sub-No. 8.

MC 52419 (Sub-1)X, filed August 3, 1981. Applicant: JONES TRUCKING CO., INC., 3020 Bayview Drive, Green Bay, WI 54301. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Applicant seeks to remove restrictions in its MC–84273 and Sub-Nos. 1, 4, 5, 7 and 9F permits to (1) broaden the commodity description from cheese, cheese products, foodstuffs, materials equipment and supplies used in the manufacture and distribution of cheese, synthetic cheese products and foodstuffs to "food and related product and material, equipment and supplies used in the manufacture and distribution of food and related products", in Sub-Nos. 1, 4, 5, 7 and 9F; from for example cheese, cheese boxes, salad dressing, cheese spread, sandwich spread, cheese factory machinery and parts, salt and tin foil, bottle caps and covers, bottles, wire, paper and articles used in the manufacture of cheese factory products to "food and related products, and materials, equipment and supplies used in the manufacture and distribution of food and related products" in the lead, (2) remove the "in bulk" restriction, in Sub-No. 4, and (3) broaden the territorial description to between points in the U.S. under continuing contract(s) unnamed shippers in the lead and with named shippers in the Sub-Numbered authorities.

MC 96938 (Sub-13)X, filed August 10, 1981. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, AR 72209. Representative: Wendell C. Chandler (same address). Applicant seeks to remove restrictions in its Sub-Nos. 3, 7, 9 and 11 certificates to (A) broaden the commodity descriptions to (1) "transportation equipment," from trailers, designed to be drawn by passenger automobiles, in initial or secondary movements and/or in truckaway service, in all certificates, and (2) "lumber and wood products and metal products," from (a) buildings, in sections, mounted on wheeled undercarriages, in Sub-Nos. 3 and 7 and (b) buildings, in sections, in Sub-No. 9; (B) remove the restriction prohibiting the transportation of travel trailers, recreational vehicles and/or camping trailers, in Sub-Nos. 3, 7 and 9; and (C) authorize radial authority to replace existing one-way authority between points in various eastern States, in Sub-Nos. 3, 7, and 9.

MC 115651 (Sub-100)X, filed April 2, 1981, previously noticed in the **Federal Register** of April 16, 1981, and republished as follows: Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, D.C. 20001. In a decision in this proceeding served August 14, 1981, Division 2 ordered, as is pertinent here, republication of applicant's intent to broaden authority to serve Carpentersville, IL, in its Sub-No. 58F certificate, to authority to serve points in Kane, Lake, Cook, and McHenry Counties, IL. The purpose of this republication is to comply with this order and to request comments from interested parties.

MC 118045 (Sub-1)X, filed August 3, 1981. Applicant: ALBANY FROZEN EXPRESS, INC., 54 S. Dawson, P.O. Box 24625, Seattle, WA 98124. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from frozen fruits, frozen berries, and frozen vegetables, to "food and related products"; and (2) authorize radial authority in lieu of existing one-way authority between named points in OR, WA, and CA.

MC 145102 (Sub-77)X, filed August 3, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Avenue, Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Applicant seeks to remove restrictions in its MC–142874 Sub-Nos. 1 and 2 permits to (1) broaden the commodity description from glass tile to "clay, concrete, glass or stone products", from scrap plastic, plastic sheeting, and plastic granules to "rubber and plastic products," and from paper to "pulp, paper and related products", in Sub-No. 2, (2) remove the "in bulk" restriction, in Sub-No. 2 and (3) broaden the territorial description to between points in the U.S. under continuing contract(s) with named shippers in both permits.

MC 146195 (Sub–4)X, filed August 6, 1981. Applicant: ENERGY CARRIERS, INC., 980A East Orangethorpe, Anaheim, CA 92801. Representative: Michael S. Rubin, 256 Montgomery Street, Fifth Fl., San Francisco, CA 94104. Applicant seeks to remove restrictions in its Sub-No. 3F certificate to eliminate the restriction limiting service to the transportation of specified commodities in bulk, in tank vehicles.

MC 152175 (Sub–1)X, filed August 12, 1981. Applicant: GRIFFIN CORPORATION OF VALDOSTA, GA, P.O. Box 1847, Valdosta, GA 31601. Representative: Kenneth D. Combs (same as applicant). Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) delete plantsite facilities; and (3) broaden cities to counties: Valdosta and Bainbridge, GA, with Lowndes and Decatur Counties, GA, and Mexico, MO, with Audrain County, MO.

[FR Doc. 81–24751 Filed 8–24–81; 8:45 am]
BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.125]

Delegation of Contracting Officer Authority to Gerald P. Gold

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Gerald P. Gold the authority to sign the following instruments up to an amount of $5,000,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

(5) Advance payments to nonprofit organizations that collect no fee for services.

The authority delegated herein is to be exercised in accordance with A.I.D. regulations, procedures, and policies in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority is effective on August 15, 1981.

Dated: August 14, 1981.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 81-24646 Filed 8-24-81; 8:45 am]

BILLING CODE 4710-02-M

[Delegation of Authority No. 143]

Senior Assistant Administrator, Bureau for Science and Technology; Delegation of Authority Regarding Programs of Scientific and Technological Cooperation

Pursuant to the authority delegated to the Administrator by Delegation of Authority No. 1 of October 1, 1979 from the Director of the United States International Development Cooperation Agency and Executive Order 12163 of September 29, 1979, and pursuant to the authorities in Public Law 96-536, Joint Resolution making futher continuing appropriations for the fiscal year 1981, approved December 16, 1980, it is hereby directed as follows:

1. The Senior Assistant Administrator for Science and Technology is delegated all appropriate functions and authorities regarding Programs of Scientific and Technological Cooperation Administered by the Agency for International Development set forth in the text of HR 4473, as agreed to by a House-Senate Conference Committee (H. Rept. 96-787), February 27, 1980.

2. Delegation of Authority No. 133, dated February 1, 1979 (44 FR 8050) is amended as follows:

(a) Delete from paragraph 1. "the Assistant Administrator, Bureau for Development Support and the Assistant Administrator, Bureau for Private and Development Cooperation" and insert in lieu thereof "the Senior Assistant Administrator, Bureau for Science and Technology, the Assistant Administrator, Bureau for Program and Policy Coordination, the Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance, and the Assistant Administrator, Bureau for Private Enterprise".

(b) Delete from paragraph 2. "Assistant Administrators" and insert in lieu thereof "officers".

(c) Change the numeration of existing paragraph "5." to paragraph "6.".

(d) Add a new paragraph 5. as follows:

5. Actions previously taken by the officers named above which are consistent with this Delegation of Authority are hereby ratified.

3. Authority hereby delegated to the Senior Assistant Administrator for Science and Technology shall include the authority to sign or approve program implementation orders and similar implementation authorizations.

4. Authority hereby delegated may be exercised by an officer serving in an acting capacity and may be redelegated.

5. Actions heretofore taken by officials designated herein are ratified and confirmed.

6. This Delegation of Authority shall be effective immediately.

Dated: August 14, 1981.

M. Peter McPherson,

Administrator.

[FR Doc. 81-24646 Filed 8-24-81; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the fortieth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on September 14 and 15, 1981.

The Executive Committee of the Joint Research Committee will meet from 8:30 a.m. to 11:30 a.m. on September 14, at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Rosslyn, Virginia; to consider plans for addressing items that need attention on the Collaborative Research Support Program (CRSP).

The full Joint Research Committee will meet from 1:00 p.m. to 5:00 p.m. on September 14, and 8:30 a.m. to 4:00 p.m. on September 15, at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The purpose of this meeting is to receive and act on recommendations from the Planning Entity on the Peanut CRSP, receive an update on aquaculture projects, review a proposal for a cooperative research program between U.S. research institutions and International Agricultural Research Centers, and to consider alternative models for organizing research.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permit.

Dr. James Nielson, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Department of State, Washington, D.C. 20523 or telephone him at (202) 632-7935.

Dated: August 19, 1981.

James Nielson,

A.I.D. Advisory Committee Representative Joint Research Committee Board for International Food and Agricultural Development.

[FR Doc. 81-24662 Filed 8-24-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or

denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: David O. Williams, Administrator, U.S. Employment Service, Room 8000 Patrick Henry Building, Employment & Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of July 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending July 22, 1981

Name of applicant and location of enterprise	Principal product or activity
Health Care Fund, Anderson, Missouri.	Health care services—skilled, intermediate and long-term nursing care.
Health Care Fund, Jefferson City, Missouri.	Do.
Health Care Fund, Butler, Missouri.	Do.

[FR Doc. 81-24729 Filed 8-24-81: 8:45 am]

BILLING CODE 4510-30-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, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1981.

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 September 4, 1981.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 17th day of August 1981.

Marvin M. Fooks,

Trade Adjustment Assistance.

Appendix

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
AUB-Garcia, Inc., Concion Div. (company)	Santa Ana, Calif	8/12/81	8/5/81	TA-W-12,894	Tubular fishing rods.
Eaton Corp., Brake Shoe Dept. (workers)	Gallatin, Tenn	8/10/81	8/3/81	TA-W-12,895	Builds heavy truck brakes.
General Motors Corp. (company)	Detroit, Mich	8/10/81	8/3/81	TA-W-12,896	Engineering, legal info. services and etc.
General Motors Corp. (company)	Warren, Mich	8/10/81	8/3/81	TA-W-12,897	Engineering, personnel, design, info services, etc.
General Motors Corp. (company)	New York, N.Y	8/10/81	8/3/81	TA-W-12,898	Accounting, corporate stock transactions, personnel, etc.
General Motors Corp. (company)	Dayton, Ohio	8/10/81	8/3/81	TA-W-12,899	Photographic services, public relations, etc.
General Motors Corp. (company)	Milford, Mich	8/10/81	8/3/81	TA-W-12,900	Engineering, products testing, etc.
General Motors Corp. (company)	Flint, Mich	8/10/81	8/3/81	TA-W-12,901	Purchasing, personnel, etc.
General Motors Corp. (company)	Chicago, Ill	8/10/81	8/3/81	TA-W-12,902	Consumer relations, etc.
General Motors Corp. (company)	St. Louis, Mo	8/10/81	8/3/81	TA-W-12,903	Consumer relations, etc.
General Motors Corp. (company)	Los Angeles, Calif	8/10/81	8/3/81	TA-W-12,904	Consumer relations, etc.
General Motors Corp. (company)	San Francisco, Calif	8/10/81	8/3/81	TA-W-12,905	Public relations, etc.
General Motors Corp. (company)	Washington, D.C	8/10/81	8/3/81	TA-W-12,906	Government relations, etc.
General Motors Corp. (company)	Indianapolis, Ind	8/10/81	8/3/81	TA-W-12,907	Personnel, public relations, etc.
General Motors Corp. (company)	Boston, Mass	8/10/81	8/3/81	TA-W-12,908	Public relations, etc.
General Motors Corp. (company)	Kansas City, Mo	8/10/81	8/3/81	TA-W-12,909	Public relations, etc.
General Motors Corp. (company)	Cincinnati, Ohio	8/10/81	8/3/81	TA-W-12,910	Truck and transportation planning, etc.
General Motors Corp. (company)	Honolulu, Hawaii	8/10/81	8/3/81	TA-W-12,911	Car orders and distribution services.
Greenville Steel Car Company (UAW)	Greenville, Pa	8/7/81	7/24/81	TA-W-12,912	High cube (box) railroad cars.
Harley Davidson York, Inc. (IAMAW)	York, Pa	8/6/81	7/29/81	TA-W-12,913	Motor cycles and golf carts.
Perrini Brothers Knitting Mills, Inc. (workers)	Ridgewood, N.Y	8/12/81	8/7/81	TA-W-12,914	Ladies' knitted outerwear.
Princeton Shirt Corp. (ACTWU)	Perth Amboy, N.J	8/6/81	8/3/81	TA-W-12,915	Men's shirts.
R & K Fabrics (company)	Elizabeth, N.J	8/7/81	7/31/81	TA-W-12,916	Cutting of ladies' garments.
Teledyne Wisconsin Motors (UAW)	Milwaukee, Wis	8/6/81	7/31/81	TA-W-12,917	Single cylinder engines.

Appendix—Continued

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Texas Instruments, Inc. Liquid Crystal Displays Dept. (workers).	Dallas, Tex	8/3/81	7/29/81	TA-W-12,918	Liquid crystal display

[FR Doc. 81-24748 Filed 8-24-81; 8:45 am]
BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-81-165-C]

Elkay Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Elkay Mining Company, P.O. Box 459, Lyburn, West Virginia 25632, has filed a petition to modify the application of 30 CFR 49.6(a)(1) (mine rescue teams; requirements) to its Elkay Nos. 1, 2, 3 Mines, Mine Nos. 4A, 4B, 5B and Wade No. 1 and No. 3 Mines, all located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mine rescue stations be equipped with twelve self-contained oxygen breathing apparatus.

2. The petitioner presently has one six-member fully equipped mine rescue team formed at the mine.

3. As an alternative method, petitioner proposes that a second mine rescue tean would be available at all times when miners are underground located no more than two hours travel time from the mine rescue station. This second team will be fully equipped with self-contained oxygen breathing apparatus and required accessories which its members will provide themselves.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 24739 Filed 8-24-81; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-81-82-C]

Imperial Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Imperial Coals, Inc., Box 517, Oneida, Tennessee 37841 has filed a petition to modify the application of 30 CFR 77.1605(k) (berms or guards) to its No. 1 Mine located in Scott County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be installed on existing haul roads.

2. The haul road used by the petitioner is a private roadway owned by Koppers Co., Inc., but is also a public access road that is used by local governmental entities as a connecting link between existing county roads and by the general public.

3. The present haul road has been in operation leading from this mining site for more than three years and is approximately four miles long. Petitioner has erected berms commencing at the mine site and leading to the gate controlling access to petitioner's mine site, but such berms have not been placed upon other areas of the haul road beyond the petitioner's gate.

4. This privately owned haul road is open to and constantly used by the general public; there are not gates, fences or vehicular restraint controls on this roadway.

5. Petitioner states that installation of berms along this public throroughfare would destroy the esisting drainage on this roadway and would result in the deterioration and eventual destruction of the roadway, all of which would constitute a hazard to the general public utilizing the roadway as a public thoroughfare.

6. Results of an accident investigation on this roadway indicated that berms would not be effective in preventing heavy trucks from leaving the roadway.

7. As an alternative to installing berms or guards on the roadway, petitioner states that the following safety precautions and procedures will be followed:

a. A safety inspection will be made of each haulage vehicle prior to use; defects will be corrected before use;

b. The minimum width of all two-lane areas of the road shall be two and one-half times the width of the widest vehicle and on single-lane areas, one and one-half times the width of the widest vehicle. In addition, numerous clearly marked passing zones exist along the entire roadway length;

c. Applicable safety signs and reflective poles will be posted along the entire roadway length.

8. Petitioner states that the safety procedures outlined above will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24741 Filed 8-24-81; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-81-139-C]

Jewell Ridge Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Jewell Ridge Coal Corporation, P.O. Box 28, Jewell Ridge, Virginia 24622 has filed a petition to modify the application of 30 CFR 49.6(a)(1) (equipment and maintenance requirements; mine rescue

teams) to its Seaboard No. 1 and No. 2, Big Creek Tiller, No. 11C, No. 11D, No. 12, No. 12A, No. 18 and No. 18A Mines, all located throughout the state of Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each mine rescue station be equipped with twelve self-contained oxygen breathing apparatus, each with a minumum of two hours capacity (approved under Subpart H of part 11 of this title) and any necessary equipment for testing such breathing apparatus.

2. As an alternative method, petitioner proposes to supply six self-contained oxygen breathing apparatus to equip its mine rescue team. In support of this proposed alternative, petitioner states that:

a. One fully equipped mine rescue team exists at the mine and arrangements exist for a second team to be available at all times when miners are underground. This back-up team is located no more than two hours travel time from the mine rescue station;

b. The second team will be fully equipped with self-contained oxygen breathing apparatus and required accessories which its members will provide themselves.

3. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24740 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-31-M]

N. A. Degerstrom, Inc.; Petition for Modification of Application of Mandatory Safety Standard

N. A. Degerstrom, Inc., N. 3303 Sullivan Road, P.O. Box 425, Spokane, Washington 99210 has filed a petition to modify the application of 30 CFR 57.4-27 (fire extinguishers on self-propelled mobile equipment) to its Dawn-Midnight Mine located in Stevens County, Washington. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-propelled mobile equipment be equipped with a suitable fire extinguisher.

2. Petititoner states that a fire extinguisher in the cabs of the mobile equipment will infer to the operator that he or she should use this extinguisher to fight any fire on his or her vehicle, thereby exposing equipment operators to unnecessary hazards.

3. As an alternative method, petitioner proposes to have stationed in two to four strategic locations along the haul road and in the open pit mining area, weather-proof boxes containing 60 to 80 B.C. dry powder fire extinguishers. These are mobile units that can readily be moved by one person to locations strategic to the general operations.

4. Petitioner states that the alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24742 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-133-C]

Ranger Fuel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ranger Fuel Corporation, P.O. Box 966, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 49.6(a)(1) (equipment and maintenance requirements; mine rescue teams) to its Beckley No. 1 and No. 2 Mines located in Wyoming County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each mine rescue station be equipped with twelve self-contained oxygen breathing apparatus, each with a minimum of two hours capacity (approved under Subpart H of part 11 of this title) and any necessary equipment for testing such breathing apparatus.

2. As an alternative method, petitioner proposes to supply six self-contained oxygen breathing apparatus to equip its mine rescue team. In support of this proposed alternative, petitioner states that:

a. One fully equipped mine rescue team exists at the mine and arrangements exist for a second team to be available at all times when miners are underground. This back-up team is located no more than two hours travel time from the mine rescue station;

b. The second team will be fully equipped with self-contained oxygen breathing apparatus and required accessories which its members will provide themselves.

3. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1980. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24743 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-155-C]

Ranger Fuel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ranger Fuel Corporation, P.O. Box 966, Beckley, West Virginia 25801, has filed a petition to modify the application of 30 CFR 75.1807 (daily inspection of hoisting equipment; recording requirements; approved books) to its Beckley No. 1 and No. 2 Mines located in Wyoming County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that Form 6-1494 be used for recording inspections of hoisting and elevator equipment.

2. Petitioner inspects and examines more items of the hoisting and elevator equipment than required and has developed an alternative form for recording the inspections. All of the items which appear on Form 6-1494 appear on the alternative form.

3. For this reason, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24744 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-38-M]

Tenneco Oil; Petition for Modification of Application of Mandatory Safety Standard

Tenneco Oil, P.O. Box 1167, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-20(a) (main fans; requirements) to its Soda Ash Project located in Sweetwater County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mine fans be installed on the surface.

2. Petitioner is seeking a modification of the standard to allow installation of the mine fan at a location underground for nine months.

3. In support of this request, petitioner states that:

a. The hoisting shaft will be down-cast (intake) and the vent shaft up-cast (exhaust). The fan will be located in a bulkhead placed in the north entry off the vent shaft. All dead headings will be ventilated with auxiliary fans to insure the dilution and removal of methane;

b. The hoisting shaft will be sunk an additional 120 feet. The bottom will be supplied fresh air through existing 24-inch duct from the surface. A blowing fan is currently installed at the surface and will be used throughout shaft sinking to supply air;

c. At the vent shaft, the west heading will have a crusher-feeder. A bulkhead will be built tight around the discharge with a flexible flap installed over the hole;

d. The south entry will be sealed off with steel doors which will be opened only when large equipment is lowered underground. A man door and utility door will be part of the large doors. All electrical equipment in the vent shaft will be explosion proof and/or permissible;

e. The underground fan will be 48 inches in diameter and belt driven with a permissible motor. It will be encased in a non-combustible bulkhead. The motor will have two power sources with controls both underground and on the surface; all controls will be in fresh air;

f. A methane monitor will be installed at the fan which will sound an alarm (surface and underground) if methane should reach 0.8%, and shut off all underground power (including itself) if methane reaches 1.0%; read-out will be provided at the fan and on the surface;

g. A recording water gauge will be used at the fan which will be checked, chart changed and logged daily;

h. An emergency fan (48 inch diameter) will be installed on the surface on the vent shaft to blow fresh air down the shaft. This fan will be run only if the main fan is down since it will reverse the direction of air flow.

4. Petitioner states that the proposal outlined above provides the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1981. Copies of the petition are available for inspection at that address.

Dated: August 17, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-24745 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Michigan State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 3, 1973, notice was published in the **Federal Register**, 38 FR 27338, of the approval of the Michigan plan and the adoption of Subpart T to Part 1952 containing the decision.

The Michigan plan provides for the promulgation of State standards which are at least as effective as comparable Federal Standards promulgated under section 6 of the Act. On December 11, 1980, C. Patrick Babcock, Director of the Michigan Department of Labor, and Maurice S. Reizen, M.D., Director of the Michigan Department of Public Health, submitted State standards in response to Federal standards for Inorganic Arsenic (29 CFR 1910.1018) and for Acrylonitrile (29 CFR 1910.1045). In the accompanying correspondence, assurances were given that the standards had been developed,

reviewed by the public, and promulgated as prescribed by the Michigan Administrative Procedures Act, P.A. 306 of 1969 and Act 154, P.A. 1974, as amended.

2. *Decison.* Having reviewed the State submissions in comparison with Federal standards, the Regional Administrator has determined that the State standards are at least as effective as comparable Federal standards.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, with the approved plan, may be inspected and copied during normal business hours at the following locations: the Office of the Regional Administrator, Occupational Safety and Health Administration, 230 S. Dearborn St., Chicago, Illinois 60604; State of Michigan, Department of Public Health, 3500 N. Logan St., Lansing, Michigan 48914; Office of the Director of Federal Compliance and State Programs, Rm. N3619, 200 Constitution Ave. NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Michigan State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. Some standards are identical to the Federal standards and are therefore deemed to be at least as effective as these standards.

2. These identical standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

3. The non-identical standards were adopted in accordance with the procedural requirements of State law, which included public comment, and further public participation would be repetitious.

This decision is effective August 25, 1981.

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

Signed at Chicago, Illinois this 20th day of July 1981.

Alan C. McMillan,

Acting Regional Administrator.

[FR Doc. 81-24736 Filed 8-24-81; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, DC 20506:

1. Date: September 9, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
2. Date: September 11, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review College Teacher Fellowship applications in American Literature to 1900; Afro-American Literature; American Studies; Modern British and American Theater; American, British, and European film and TV; submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
3. Date: September 11, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review Fellowships for Summer Seminar applications in Music, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
4. Date: September 14, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review College Teacher Fellowship applications in Art and Music, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
5. Date: September 14, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in comparative Literature and Drama and Film submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
6. Date: September 16, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review Fellowships for Summer Seminar applications in Modern Languages (French/Spanish), submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
7. Date: September 17-18, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023-1025
Program: This meeting will review applications submitted for Higher Education/Regional and National grants, Division of Education, for projects after January 1, 1982.
8. Date: September 18, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review applications submitted for General Research Program for Basic Research: Panel 2, Division for Research Programs, for projects beginning after January 1, 1982.
9. Date: September 21, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in Political Science and Area Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
10. Date: September 22, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in Anthropology, Sociology, and Folklore, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
11. Date: September 24-25, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for General Reaserch Program for Basic Research: Panel 3, Division of Research Programs, for projects beginning after January 1, 1982.
12. Date: September 25, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
13. Date: September 17, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in English and American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.
14. Date: September 28, 1981
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Summer Seminar applications in Germanic, Slavic, and Classical Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade Secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc 81-24770 Filed 8-24-81; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

Alabama Power Co., Notice of Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. NPF-2, and Amendment No. 5 to Facility Operating License No. NPF-8, issued to Alabama Power Company, which revised the licenses for operation of the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, located in Houston County, Alabama. The amendments are effective as of the date of issuance and are to be fully implemented within 60 days of Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendments add license conditions to include the Commission-approved Guard Training and Qualification Plan as part of the licenses. The amendment for Unit 2 also adds the previously approved Contingency Plan for Farley Plant added for Unit 1 by our Amendment No. 17 on December 10, 1980.

The licensee's filing, which has been handled by the Commission as an application, 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.

The licensee's filing dated August 16, 1979, and its revision submitted by letter dated April 27, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 23 to License No. NPF-2, and Amendment No. 5 to License No. NPF-8 and (2) the Commission's related letter to the licensee dated August 18, 1981. 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 George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (1) and (2) 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 18th day of August, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-24641 Filed 8-24-81; 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 September 10-12, 1981, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 18, 1981.

The agenda for the subject meeting will be as follows:

Thursday, September 10, 1981

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 including selection and appointment of a new ACRS member.

Portions of this session will be closed as necessary to discuss information of a personal nature the release of which would constitute a clearly unwarranted invasion of personal privacy.

8:45 A.M.-10:45 A.M.—Implementation of P.L. 96-567, Nuclear Safety Research, Development, and Demonstration Act of 1980 (Open)—The Committee will hear and discuss the reports of its Subcommittees regarding the provisions of this Act relating to a program management plan for conduct of research and development activities, the need for and feasibility of a national engineering simulator, and efforts to provide specially trained professionals to operate nuclear power plants and other facilities at the back end of the fuel cycle. Representatives of NRC and DOE will participate as appropriate.

10:45 A.M.-11:15 A.M.: NRC Regulatory Process (Open)—The Committee will hear reports from representatives of the NRC Staff regarding the basis for use of rules in the licensing process.

11:15 A.M.-12:30 P.M.: Siting Criteria for Nuclear Power Plants (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed changes in NRC siting criteria (10 CFR Part 100) for nuclear power plants. Representatives of the NRC Staff and the nuclear industry will participate as appropriate.

1:30 P.M.-3:00 P.M.: Decay Heat Removal Systems (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding the proposed NRC Task Action Plan (Task A-45) for evaluation of alternate decay heat removal systems for nuclear power plants. Members of the NRC Staff will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

3:00 P.M.-4:00 P.M.: Licensee Event Reporting (LER) System (Open)—The Committee will hear and discuss the report of its Subcommittee regarding proposed changes in the procedures for coding and searching LER's. Members of the NRC staff will participate as appropriate.

4:00 P.M.-5:00 P.M.: NRC Safety Research Program (Open)—The Committee will hear and discuss a report from members of the NRC Staff regarding the proposed safety research budget for work related to the licensing of the Clinch River Breeder Reactor.

Portions of the meeting will be closed as necessary to discuss information the premature disclosure of which would be likely to significantly frustrate performance of the Committee's statutory function.

5:00 P.M.-6:00 P.M.: Control of Combustible Gases Following a Nuclear Accident (Open)—Members of the NRC Staff will report to the Committee regarding the current

status of activites related to the control of combustible gases (hydrogen) following a reactor accident. Specific design provisions proposed for selected nuclear plants (e.g., Allens Creek Nuclear Plant and the Pilgrim Nuclear Plant) will be discussed.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

6:00 P.M.–7:30 P.M.: Quantitative Risk Criteria (Open)—The Committee will discuss a proposed supplement report to its report entitled, An Approach to Quantitative Safety Goals for Nuclear Power Plants, NUREG–0739, in response to comments received regarding the basis for this report.

Friday, September 11, 1981

8:30 A.M.–12:00 Noon: Nuclear Reactor Pressure Vessel Integrity (Open)—Representatives of the NRC Staff will report to the Committee regarding the status of activities related of concern regarding the thermal shock to reactor pressure vessels which could result from an overcooling transient.

1:00 P.M.–2:00 P.M.: NRC Regulatory Criteria (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed changes in NRC Regulatory Guides and 10 CFR 50, Appendix G, Fracture Toughness Requirements and Appendix H, Reactor Vessel Material Surveillance Program Requirements. Members of the NRC Staff and the nuclear industry will participate as appropriate.

2:00 P.M.–3:00 P.M.: NRC Criteria (10 CFR 61) for Land Disposal of Radioactive Waste (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed criteria (10 CFR Part 61) for land disposal of low level radioactive wastes. Representatives of the NRC Staff will report on and discuss the basis for the proposed criteria.

3:00 P.M.–5:00 P.M.: NRC Criteria for Geologic Disposal of High Level Radioactive Wastes (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed Technical Criteria for Disposal of High-Level Radioactive Wastes in Geological Repositories. Representatives of the NRC Staff will report on and discuss the basis for the proposed criteria.

5:00 P.M.–5:15 P.M.: Future ACRS Activities (Open)—The Committee will discuss items tentatively scheduled for Committee action. Anticipated Subcommittee activity will also be discussed.

5:15 P.M.–6:30 P.M.: ACRS Subcommittee Activity (Open)—ACRS Subcommittee Chairman will report to the Committee regarding ongoing Subcommittee activities including review of proposed changes in 10 CFR 50.46, Appendix K, ECCS Evaluation Models for Boiling Water Reactors and 10 CFR 50, Licensing Requirements for Pending Operating License Applications.

Saturday, September 12, 1981

8:30 A.M.–12:00 Noon: ACRS Reports to NRC (Open)—The Committee members will discuss proposed reports to the Nuclear Regulatory Commission and proposed comments to the NRC Executive Director for Operations regarding items discussed during this meeting.

The members will also discuss a proposed ACRS position regarding the application of TMI–2 Lessons Learned to DOE nuclear facilties and the report of the Nuclear Safety Oversight Committee regarding proposed changes in the regulatory process and the activities of the Committee.

ACRS procedures for participation in NRC rulemaking activities will also be discussed.

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) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), to discuss Proprietary Information relating to the matter being considered (5 U.S.C. 552b (c)(4)), and information the premature disclosure of which would be likely to significantly frustrate proposed agency action (5 U.S.C. 552 b(c)(9)).

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. EDT.

Dated: August 19, 1981.

Samuel J. Chilk,

Secretary to the Commission.

[FR Doc. 81-24734 Filed 8-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 39 and 62 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the licenses for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance and are to be implemented in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendments add license conditions to include the Commission-approved Guard Training and Qualification Plan as a part of the licenses.

The licensee's filings, which have been handled by the Commission as an application, comply with the standards and requirements of the Atomic Energy Act 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 rule and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the 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 the issuance of the amendments.

The licensee's filings dated August 17, 1979 and May 26, 1981 are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment Nos. 39 and

62 to License Nos. DPR-71 and DPR-62 and (2) the Commission's related letter to the licensee dated August 17, 1981. 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 Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (1) and (2) 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 August 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-24733 Filed 8-24-81; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1981, shall be at the rate of 14½ cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1981, 22.5 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 77.5 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 17, 1981.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 81-24681 Filed 8-24-81; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11911; 812-4933]

Quaker Cash Reserves, Inc.; Filing of Application

August 18, 1981.

Notice is hereby given that Quaker Cash Reserves, Inc. ("Applicant"), Axe Wood, Butler & Skippack Pikes, Blue Bell, Pennsylvania 19422, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 30, 1981, 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 value its portfolio assets pursuant 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 is a no-load, "money market" fund organized under the laws of Maryland, and that Stratton Management Company serves as its investment adviser. The investment objective of Applicant is to seek the highest possible current income consistent with the preservation of capital and liquidity. It will seek to achieve this objective by investing exclusively in money market instruments maturing in twelve months or less, including the following: (1) Obligations of, or guaranteed by, the United States government, its agencies or instrumentalities; (2) Obligations of banks, including but not limited to, certificates of deposit or bankers' acceptance of banks having total assets in excess of one billion dollars ("banks" include commercial banks, savings banks, and savings and loan associations); (3) Commercial paper obligations rated A-1 by Standard & Poor's Corporation ("S&P") or Prime-1 by Moody's Investors Service ("Moody's") or, if not rated, are issued or guaranteed by companies with an unsecured debt issue currently outstanding rated Aaa or Aa by Moody's or AAA or AA by S&P, and investments in other corporate debt obligations such as publicly traded bonds, debentures and notes rated Aaa or Aa by Moody's or AAA or AA by S&P; (4) obligations other than the foregoing if the obligation is accompanied by a guarantee of principal and interest, provided that the guarantee is that of a bank or corporation whose certificates of deposit or commercial paper may be otherwise purchased by Applicant, and the obligation is determined to be "high quality" by Applicant's board of directors; and (5) Repurchase agreements involving obligations which are eligible for investment under the foregoing categories. Applicant intends to maintain a dollar-weighted average portfolio maturity of 120 days or less. The minimum initial investment to open an account will be $1,000, and subsequent investments must be in amounts of not less than $100.

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 thereunder. Section 2(a)(41) of the Act defines values to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities and, (2) with respect ot other securities and assets, fair value as determined in good faith by the investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company issuing any redeemable security, and no principal underwriter of or dealer in any such 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 purposes of distribution, redemption, and repurchase shall be an amount which reflects calculations, whether or not recorded on the books of account, 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 other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered investment company. Prior to the filing of this application, the Commission expressed its view that, *inter alia:* (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 protfolio

instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 1, 1977).

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 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 the exemptive relief requested, Applicant argues that its shareholders would be unfairly treated if it were forced to price its portfolio instruments in a manner which would produce artificial price or yield volatility for instruments which Applicant expects to hold until maturity. Applicant states 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. However, Applicant states 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, with the advice of its investment adviser, has determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of Applicant's investors by providing the required stability of principal to individuals and institutional investors, and by reducing the risk of significant volatility in the value of portfolio instruments while at the same time producing a yield commensurate with those available in the short-term money market. Furthermore, prior to formally adopting the amortized cost method of valuation, Applicant's board of directors will determine in good faith that in light of the characteristics described above, including the conditions to which Applicant must adhere as set forth below, absent unusual or extraordinary circumstances, the amortized cost method of valuing its portfolio securities will reflect the fair value of such securities. 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 the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(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; reducing or 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 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 records maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' 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 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 of directors.

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.

On the basis of the foregoing, Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 14, 1981, 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

[1] To fulfill this condition, 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 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 the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

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 cerrtificate) shall be filed contemporaneously with the request. As porovided by Rule 0–5 if 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. 81-24007 Filed 8-24-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11910; 811-2039]

Stock Average Fund, Inc.; Proposal To Terminate Registration

August 18, 1981.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order its own motion that Stock Average Fund, Inc. ("Fund"), c/o Shy & Company, P.O. Box 3134, Memphis, Tennessee 38103, registered under the Act as an open-end, non-diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Maryland on November 6, 1969, are registered under the Act on March 5, 1970, under the name Compustrend Fund, Inc. The files of the Commission further indicate that at a special shareholders meeting held on May 24, 1976, shareholders of the Fund approved changing the name of the Fund to the Stock Average Fund, Inc. According to the files of the Commission, the last quarterly report filed by the Fund with the Comission was dated October 30, 1978, which indicated that for the calendar quarter ending September 30, 1978, the fund had total net assets of $2,358.42. In addition, the staff of the Commission has been advised by counsel for the Fund that the Fund has been liquidated and all of the Fund's assets have been distributed to its shareholders. Counsel for the Fund has specifically advised the staff of the Commission that the Fund does not propose to resume its business activities. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 14, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of this matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment mangement, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-24006 Filed 8-24-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Ratification of Claims Approval

AGENCY: Small Business Administration.

ACTION: Notice of ratification.

SUMMARY: In the course of an audit conducted by the Inspector General of the Small Business Administration, it was ascertained that an improper delegation of authority had been made on November 19, 1979, which permitted the Claims Supervisor, Surety Bond Guarantee Section, Office of Special Guarantees, to approve certain claims. To rectify this error, the following ratification is published.

Ratification

Pursuant to the authority contained in paragraph I.G, delegation of Authority No. 12–A, Revision 2, I hereby ratify all claims request approval documents (SBA Form 1101) signed by the Claims Supervisor, Surety Bond Guarantee Section, Office of Special Guarantees, Small Business Administration, between November 19, 1979, and August 4, 1980.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur E. Armstrong, Director, Office of Special Guarantees, Small Business Administration, Washington, D.C. 20416, (703) 235–2900.

Arthur E. Armstrong,

Director, Office of Special Guarantees.

June 17, 1981.

[FR Doc. 81-24775 Filed 8-24-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06–0175]

Small Business Investment Capital, Inc.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to § 107.1004(e) of the Regulations governing small business investment companies (13 CFR 107.1004 (1981)), of a request for approval of a conflict of interest transaction between Small Business Investment Capital, Inc. (Licensee), 10003 New Benton Highway, Little Rock, Arkansas 72203, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and Associates.

Licensee was licensed by SBA on March 6, 1975. It is owned 100 percent by Shur-Valu Stamps, Inc., 10003 New Benton Highway, Little Rock, Arkansas 72203, which in turn is owned approximately 98 percent by Affiliated

Food Stores, Inc., a cooperative of retail grocers.

The Licensee proposes to provide financial assistance to Mr. Fred Smith, 550 East Main, Magnolia, Arkansas 71753, to purchase a grocery store previously owned by Mr. Dale Stuard. Mr. Smith is a director of Affiliated Food Stores, Inc. As such, Mr. Smith is an Associate of the Licensee as defined by § 107.3(c) of the Regulations.

The proposed financing falls within the purview of § 107.1004(b)(1) of the Regulations and requires a written exemption from SBA. SBA is considering a request for such exemption.

Notice is further given that any person may, not later than September 9, 1981, submit to SBA in writing, comments on the proposed transaction. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Little Rock and Pine Bluff, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 17, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-24776 Filed 8-24-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/436]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The SOLAS Subcommittee and the Tonnage Subcommittee will conduct an open meeting on September 9, 1981, at 9:30 A.M., in Room 3201 of the Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of this meeting will be to discuss the impact of the coming into force of the 1969 Convention on Tonnage Measurement in July 1982 and what effect it could have on related maritime treaties. The following is the agenda for the meeting:

1. Background Discussion, 1969 Convention on Tonnage Measurement of Ships
2. Status of the Convention in the United States
3. Discussion of Possible Effects of Ratification versus Non-Ratification
4. Discussion of Possible Courses of Action

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Daniel F. Sheehan, U.S. Coast Guard (G-MM/24), 2100 Second Street, SW., Washington, D.C. 20593. Telephone (202) 426-2170.

Dated: August 14, 1981.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 81-24647 Filed 8-24-81; 8:45 am]

BILLING CODE 4701-07-M

DEPARTMENT OF THE TREASURY

Performance Review Board

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of change in membership of a senior executive service performance review board.

SUMMARY: This notice announces the new membership of the Departmental PRB, pursuant to 5 U.S.C. 4314(c)(4), the Civil Service Reform Act of 1978. The purpose of the Board is to review performance appraisals, ratings, recommendations for performance awards (also SES incentive awards and Presidential Ranks if requested), and other appropriate personnel actions for incumbents of non-delegated SES positions. These positions include SES bureau heads, deputy bureau heads, bureau chief inspectors, Assistant Commissioners of the Internal Revenue Service, and certain other positions. The Board makes recommendations to the Secretary or his designee as Appointing Authority. In addition, the Board will perform PRB functions for other top bureau positions if requested. Three members constitute a quorum, at least two of whom must be career appointees.

FOR FURTHER INFORMATION CONTACT: David S. Burckman, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220; Telephone 566-2701.

SUPPLEMENTARY INFORMATION: The membership of the Departmental PRB which appeared in the **Federal Register**, Volume 25, No. 85, page 28850, Wednesday, April 30, 1980, has been changed. The current membership is as follows:

Cora P. Beebe, Assistant Secretary (Administration)
John P. Simpson, Deputy Assistant Secretary (Enforcement and Operations)
Paul K. Trause, Inspector General
Angela Marie Buchanan, United States Treasurer
Paul H. Taylor, Fiscal Assistant Secretary
Gerald Murphy, Deputy Fiscal Assistant Secretary
Roscoe Egger, Commissioner, Internal Revenue Service
Roger W. Mehle, Assistant Secretary (Domestic Finance)

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 81-24675 Filed 8-24-81; 8:45 am]

BILLING CODE 4810-25-M

Senior Executive Service (SES) Bonuses

AGENCY: Office of the Secretary of the Treasury.

ACTION: Notice of Schedule for Awarding SES Bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: David S. Burckman, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220; Telephone 566-2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives for the performance appraisal rating period ending June 30, 1981 (or July 31, 1981), with payouts by September 30, 1981. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), codified in 5 U.S.C. 5384, and by section 303 of the Supplemental Appropriations and Rescission Act, 1980 (Pub. L. 96-304).

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 81-24674 Filed 8-24-81; 8:45 am]

BILLING CODE 4810-25-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Establishment of an Investment Policy Advisory Committee

The U.S. Trade Representative has taken steps to establish an Investment Policy Advisory Committee. This Committee will be chartered pursuant to Section 135(c) (2) of the Trade Act of 1974 (19 U.S.C. 2155), as amended; the Federal Advisory Committee Act (5 U.S.C. App. 1); Section 4(d) of Executive Order No. 11846, March 27, 1975; and Executive Order No. 121888. The charter of this Committee will be filed 15 days from the date of this notice.

The Investment Policy advisory Committee is being established to provide the United States Trade Representative with policy advice and information reqarding direct investment to the extent it relates to international trade, including the following areas: operations of multinational enterprises, and multilateral and bilateral agreements on international investment, direct investment by Americans abroad and issues of direct foreign investment in the U.S.

The Committee will meet approximately three or four times per year, depenidng on the needs of the U.S. Trade Representative. The U.S. Trade Representative or his designee will convene meetings of the Committee.

Members of the Committee shall be appointed by, and serve at the discretion of the U.S. Trade Representative. Representatives from the private sector wishing further information or to be considered for appointment to serve on the Committee should contact: The United States Trade Representative, Office of Private Sector Liaison, 600—17th Street, NW., Room 123, Washington, D.C. 20506, (202) 395–6120.

Phyllis O. Bonanno,

Director, Office of Private Sector Liaison.

[FR Doc. 81–24670 Filed 8–24–81; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 164
Tuesday, August 25, 1981

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

FEDERAL HOME LOAN BANK BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Friday, August 21, 1981, at 10:00 A.M.

PLACE: 1700 G St., N.W., Board Room, 6th Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679)

CHANGES IN THE MEETING: THE BANK BOARD MEETING SCHEDULED FOR FRIDAY, AUGUST 21, 1981 HAS BEEN CANCELLED:

[No. 533, August 20, 1961]

[S–1282–81 Filed 8–20–81; 8:45 am]

BILLING CODE 6720–01–M

2

FEDERAL RESERVE SYSTEM.

BOARD OF GOVERNORS.

TIME AND DATE: 10:00 a.m., Monday, August 31, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 21, 1981.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[S–1283–81 Filed 8–21–81; 2:50 pm]

BILLING CODE 6210–01–M

3

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, September 1, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report:* Aircraft Incident and Related Near Collisions at Hartsfield Atlanta International Airport, Atlanta Georgia, October 7, 1980, and *Recommendations* to the Federal Aviation Administration.

2. *Aircraft Incident Report:* Eastern Airlines Boeing 727–25, N8140E, John F. Kennedy International Airport, April 18, 1961.

3. *Recommendation* to the Federal Aviation Administration re B–727 Flight Manual Information relevant to landing gear position indicators and horn.

4. *Special Study:* Railroad/Highway Grade Crossing Accidents Involving Trucks Transporting Bulk Hazardous Materials.

5. *Special Study:* Fatalities and Injuries Associated With Riding in Open-Cargo Areas of Vehicles.

6. *Safety Effectiveness Evaluation:* Coordination of FHWA and NHTSA in Small Car Vehicle-Highway-Driver Safety Problems.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–382–6525.

August 21, 1981.

[S–1284–81 Filed 8–21–81; 3:54 p.m.]

BILLING CODE 4910–58–M

4

TENNESSEE VALLEY AUTHORITY.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 16 FR 41899, August 18, 1981.

CHANGES IN PREVIOUSLY ANNOUNCED TIME AND PLACE OF MEETING: Because of inclement weather, the previously announced time and place of the August 20 TVA Board meeting were changed, following public announcement of the changes at the earliest practicable time, as follows:

Location Has Been Changed to: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

Time Has Been Changed to: 8:30 a.m., August 21, 1981.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington office, 202–245–0101.

Dated: August 21, 1981.

[S–1285–81 Filed 8–21–81; 3:58 pm]

BILLING CODE 8120–01–M

federal register

Tuesday
August 25, 1981

Part II

Department of Labor

Office of Federal Contract Compliance Programs

Government Contractors: Affirmative Action Requirements

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-50, 60-60, 60-250, 60-741

Government Contractors; Affirmative Action Requirements

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: On December 30, 1980, the Department of Labor published a final rule revising the regulations at 41 CFR Chapter 60 concerning non-discrimination and affirmative action requirements for Government contractors, (see 45 FR 86215; corrected January 23, 1981, at 46 FR 7332) which implement Executive Order 11246, as amended, section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and section 503 of the Rehabilitation Act of 1973, as amended. The rule was to take effect on January 29, 1981. On January 28, 1981, the Department of Labor published a notice (at 46 FR 9084) delaying the effective date of the final rule until April 29, 1981, to allow the Department time to review the regulation fully. On April 28, 1981, the Department published a notice (at 46 FR 23742) further delaying the effective date of the regulation until June 29, 1981. On June 26, 1981 (at 46 FR 33033), the effective date was delayed until July 15, 1981; on July 14, 1981 (at 46 FR 36144), the effective date was again delayed until August 26, 1981.

The proposal published today would revise a number of the sections contained in the regulations published on December 30, 1980. Today's proposal also would retain some of the provisions contained in the December 30 regulations. In addition, the proposal published today would revise some of the regulations in 41 CFR Chapter 60 which were not amended by the December 30 regulations. For ease in reading and convenience to the public (considering that the Code of Federal Regulations is probably more accessible than the December 30 **Federal Register** document), references herein to section and part numbers (unless otherwise indicated) are to the existing regulations as codified in 41 CFR Chapter 60 (July 1, 1980 edition) rather than to the December 30, 1980, **Federal Register.**

DATE: Comments must be received by: October 26, 1981.

ADDRESS: Send comments to: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210. Because the Department expects a large volume of comments, preprinted postcards will be used to acknowledge receipt of comments.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: On December 28, 1979, the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, published in the **Federal Register** (at 44 FR 77006) a proposal to amend, consolidate, and integrate certain regulatory provisions pertaining to the three programs administered by OFCCP: Executive Order 11246, as amended, section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and section 503 of the Rehabilitation Act of 1973, as amended. A final rule, codifying some of the proposed changes, was published on December 30, 1980 (at 45 FR 86215; corrected January 23, 1981, at 46 FR 7332). The rule was to take effect on January 29, 1981. On January 28, 1981, the Department of Labor published a notice (at 46 FR 9084) delaying the effective date of the final rule until April 29, 1981, to allow the Department time to review the regulation fully. On April 28, 1981, the Department published a notice (at 46 FR 23742) further delaying the effective date of the regulation until June 29, 1981. The Department published two subsequent deferrals. On June 26, 1981 (at 46 FR 33033), the effective date was delayed until July 15, 1981; on July 14, 1981 (at 46 FR 36144), the effective date was again delayed until August 26, 1981. The delays were necessary in order to fully review the OFCCP regulations in accordance with Executive Order 12291, to permit consultation with interested groups, and to comply with intergovernmental review and coordination procedures.

This Notice has been the subject of coordination with the Equal Employment Opportunity Commission (EEOC) pursuant to Executive Order 12067. While EEOC agrees to the publication of this Notice, differences exist between the EEOC and OFCCP with regard to a number of provisions in the Notice and further coordination will be undertaken prior to issuance of the final regulation in order to resolve these differences.

Pursuant to Executive Order 12291, the Department of Labor has undertaken a review of the final rule published on December 30, 1980. The review covered sections of the regulations which would have been changed by the December 30 rule, as well as sections which would have remained unchanged. Our review of the regulations has indicated a need to reduce the compliance burdens placed upon covered Federal contractors, subcontractors and federally assisted construction contractors (hereinafter referred to as contractors unless noted otherwise). The continuance, unchanged, of longstanding provisions of the contract compliance program, such as dollar volume thresholds for coverage of written AAP requirements, has failed to take into account the effects of inflation upon the procurement process, with the result that compliance burdens have fallen upon progressively smaller contractors. In addition, a number of OFCCP's procedures may not have been productive in encouraging voluntary compliance, and may have led to unnecessary confrontation between contractors acting in good faith and representatives of the government. Consistent with Executive Order 12291, today's proposal attempts to reduce substantially compliance burdens of government contractors without unnecessarily infringing protection of minorities, women, veterans and the handicapped.

Thus, a number of proposed revisions affect not only the procedures the government uses in its relations with contractors, but the costs involved in compliance with the regulations. The Department particularly requests comments upon the likely cost impact of these provisions of the regulations, and invites submission of suggestions for alternatives designed to achieve the objectives of Executive Order 11246, section 402, and section 503 at reduced costs.

On July 14, 1981, the Department of Labor published in the **Federal Register** (at 46 FR 36213) an advance notice of proposed rulemaking inviting the public to comment on four issues. The issues concerned are: (I) The method used to determine the availability of minorities and women for nonconstruction contractors; (II) the appropriateness of back pay as a remedy under Executive Order 11246; (III) Executive Order coverage of a Federal construction contractor's nonfederally funded construction projects; and (IV) the methods used to set goals for women and minorities in construction. Comments will be received on the advance notice until September 14, 1981. Persons who wish to comment on any of the four issues raised in the advance

notice should respond to the notice rather than to this proposal. Those who have already submitted comments on any or all of the issues included in the advance notice need not repeat those comments in their submission on this proposal. It is important that the public follow this requested procedure to insure that its comments are considered. Separate analyses and tabulations will be done for the advance notice and this proposal. Since the issues addressed in the advance notice are not slated for change in this proposal, comments submitted on the advance notice issues will not be analyzed for this proposal.

The public is encouraged to comment on both the advance notice of proposed rulemaking and this proposal. The Department is committed to giving serious consideration to all substantive comments received. All reasoned comments will be given weight in drafting final regulations. Public comment can be of significant assistance to the Department in developing regulations which result in a manageable, effective program while reducing compliance burdens.

I. Consolidation of Provisions

The Federal contract compliance program was consolidated into one implementing agency, the Office of Federal Contract Compliance Programs, within the Department of Labor in 1978. At that time, OFCCP began consolidating within single compliance reviews the review of contractors' performance under all three laws the agency is responsible for administering. The final regulation published December 30 would have reorganized a number of provisions of the regulations to bring relevant portions of Parts 60–250 (relating to veterans) and 60–741 (relating to handicapped workers) into Part 60–1, which stipulates the general obligations of contractors. The proposal published today continues incorporation of important provisions of Parts 60–250 and 60–741 into Part 60–1. Consolidation into Part 60–1 of other current parts—Parts 60–20 (sex discrimination) and 60–50 (discrimination because of religion and national origin)—is also proposed today.

The consolidation of these provisions into Part 60–1 has also led to some reorganization of existing provisions. Part 60–1 would now reflect general contractor obligations in Subpart A, sex discrimination provisions in Subpart B, religion and national origin provisions in Subpart C, basic written AAP requirements and ancillary matters in Subpart D, and enforcement provisions in Subpart E.

On December 30, 1980, the Department also published a proposal (at 45 FR 86206) to amend Parts 60–250 and 60–741. The proposal was designed to conform these two Parts to the Department of Labor's regulations implementing section 504 of the Rehabilitation Act of 1973, which were published on October 7, 1980 (at 45 FR 66706). Some provisions of the December 30, 1980, proposal are incorporated in today's proposal; however, incorporation is limited to those definitions ("handicapped individual," "special disabled veteran," and "veteran of the Vietnam era") for which amendment is proposed to conform the regulations to recent statutory amendments to sections 402 and 503. It is not intended at this time to attempt to conform the section 503 regulations with the section 504 regulations. Those portions of the proposal published December 30 which are not addressed in today's publication shall remain as an outstanding proposal under consideration in the Department of Labor.

II. Section-by-Section Analysis

This proposal uses a long form amending procedure in which all sections of the regulations are republished, including sections for which no changes are proposed and sections for which the only proposed change would be the section number. Use of the long form procedure ensures maximum clarity.

1. *Section 60–1.1.* This section describes the purpose and application of the regulations contained in Part 60–1. Presently, Part 60–1 applies only to Executive Order 11246. However, as indicated above, the proposal would amend Part 60–1 by transferring some of the regulations in Part 60–250 (pertaining to section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974) and Part 60–741 (pertaining to section 503 of the Rehabilitation Act of 1973, as amended) to Part 60–1. Also, the proposal would amend Part 60–1 to make certain procedures (e.g., show cause notices), heretofore applicable only to Executive Order 11246, applicable to sections 402 and 503. Other important points of consolidation into Part 60–1 would include incorporation of definitions from §§ 60–250.2 and 60–741.2 into § 60–1.3, and extension of compliance review procedures (Subpart D of Part 60–1 of this proposal) to cover employment practices under sections 402 and 503. Procedures for developing AAPs under sections 402 and 503 would remain in Parts 60–250 and 60–741, respectively. In view of these proposed changes, it would be necessary to amend § 60–1.1 to reflect that Part 60–1, in addition to implementing requirements of the Executive Order, would implement certain requirements of sections 402 and 503.

When consolidation in § 60.1.1 was originally proposed on December 28, 1979 (see 44 FR 77006), a number of comments received in response to the original proposal assumed that all requirements under the Executive Order would be applicable to sections 402 and 503. Commentators were specifically concerned that contractors would be required to develop AAPs for Vietnam Era veterans, disabled veterans, and handicapped workers pursuant to existing Executive Order 11246 procedures (e.g., including goals and timetables). However, the proposal published today, like the December 28, 1979, proposal and the rule published December 30, 1980, is intended merely to reflect that some of the regulations applicable to sections 402 and 503 would be transferred to Part 60–1 to ensure consistency of procedures, where appropriate. The regulations would not require the contractor to develop goals and timetables for veterans and the handicapped.

2. *Section 60–1.3.* Presently each of the three OFCCP programs has separate regulations (i.e., separate Parts of 41 CFR Chapter 60). Each set of regulations contains a "definitions" section. Because of the similarities among the three programs, certain words and phrases are common to each, and the definitions of such words and phrases are identical. While definitions peculiar to each of the three programs remain, no useful purpose is served by maintaining separate sections in three different parts of the regulations for definitions.

Some definitions are proposed to avoid repetitions throughout the regulations. Where the regulations prohibit certain conduct or describe activities which may result in a violation, for example, the practice has been to state in the regulations that the act or omission is a violation of the Executive Order, the Equal Opportunity Clause, and the regulations implementing the Order. Similar clauses are used in the sections 402 and 503 regulations. The definition of "Order" therefore is proposed to include Executive Order 11246 and its predecessor executive orders, the Equal Opportunity Clause and the rules, regulations or orders issued pursuant to the Executive Order. Sections 402 and 503 would also be defined to make it clear that references to the regulations, for example, were not necessary to bind

contractors to their sections 402 and 503 obligations.

Similarly, references to "subcontract" and "subcontractor" would be dropped with the understanding that "contract" and "contractor," as applicable, subsume these meanings. The same approach would be followed in referring to the "Act" or to "sections 402 or 503." That is, when the regulations state that compliance with the "Act" or with "sections 402 or 503" is required, they would mean that compliance with the regulations implementing these Acts is required also.

A new definition of "applicant" would be substantially the same as that used at Question 15 in the Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures (at 44 FR 11996, March 2, 1979). The December 30 regulation contained a slightly different definition.

Since "contracting agency" is defined differently for purposes of the Order and sections 402 and 503, both definitions are included in § 60–1.3.

The definitions of "special disabled veteran" and "veteran of the Vietnam era" would be revised pursuant to recent statutory amendments extending coverage to greater numbers of Vietnam era veterans. The proposal also would amend the definition of "handicapped individual" to conform to 1978 statutory amendments concerning alcoholics and drug abusers. However, in applying the definition of "qualified handicapped individual," contractors should be aware that the same standards for determining whether an individual is capable of safely and adequately performing the job shall be applied equally to all handicapped applicants and employees, including alcoholics and drug abusers.

A definition of "establishment" is proposed to be added. The definition proposed today incorporates the concept of an entity generally having some component which exercises personnel authority and responsibilities. The proposed definition differs from the December rule by deletion of the discussion of consolidated multi-establishment affirmative action programs (AAPs). Consolidated AAPs are now treated in proposed § 60–2.1(c) and are discussed in Item 41 of this Preamble.

3. *Section 60–1.4.* Paragraphs (d), (e), and (f) of current § 60–1.4 relating to incorporation by reference, incorporation by operation of the Order, and adaptation of language would be transferred to §§ 60–1.45, 60–1.46, and 60–1.47 respectively. In addition, to reflect consolidation of the regulations, §§ 60–1.45, 1.46 and 1.47 would be amended to include sections 402 and 503 within their ambit, and comparable sections in Parts 60–250 and 60–741 would be deleted. These changes follow the December 30 rule.

4. *Section 60–1.5.* This section sets forth exemptions from Executive Order coverage. It thereby indirectly states who is covered. Under the existing regulation, contracts not exceeding $10,000 are exempt unless, within a 12-month period, the contractor has contracts which total more than $10,000. In addition, financial institutions which act as depositories of Federal funds in any amount or as issuing or paying agents for U.S. savings bonds or savings notes in any amount are covered. (The jurisdictional amount under section 402 is $10,000 and under section 503 is $2,500.)

It is proposed to eliminate, except for government bills of lading, the provision of paragraph (a) of this section which extends coverage of the Executive Order to contractors with contracts which accumulate to more than $10,000 over any 12-month period. Elimination of this requirement would reduce compliance costs upon businesses having only small government contracts and subcontracts. Comments are requested concerning the impact elimination of the accumulation provision would have upon coverage of particular industries. The December 30 rule continued accumulation for all types of contracts.

Also, it is proposed to amend the regulations to state clearly that Federal deposit or share insurance serves as a basis for Executive Order coverage. This amendment is consistent with a position taken by the Department of Labor since at least 1972, and with the December 30 rule.

When the Department first proposed on December 28, 1979, to amend the regulation to mention specifically deposit/share insurance as a basis for coverage, commentators suggested that it would be inappropriate for OFCCP to seek cancellation or termination of the deposit/share insurance relationship. As a result, on February 22, 1980, the Department published a clarification (at 45 FR 11856) that it did not intend to debar financial institutions from deposit/share insurance. Rather, OFCCP indicated that, where a financial institution which has Federal deposit or share insurance is alleged to have violated the Order, section 402 or section 503, the Department of Labor would pursue one of two options with respect to the insurance relationship—either refer the matter to the appropriate Federal financial institutions regulatory agency for action under that agency's procedures or to the Department of Justice. The regulations proposed today would carry forth this concept.

Where financial institutions had contractual relationships with the Federal Government (other than deposit or share insurance), OFCCP could enforce any suspected violations of the Order or of sections 402 or 503 in any manner described in proposed § 60–1.68, including referral of the matter to the appropriate financial institutions regulatory agency for enforcement action. See proposed § 60–1.68(i).

In those few instances in which the only nexus between a financial institution and the Federal government is deposit or share insurance, OFCCP would refer the matter to the Department of Justice under section 209(a)(2) of Executive Order 11246 and proposed § 60–1.68(f) of the regulations for injunctive relief or, if appropriate, exercise its discretion pursuant to section 209(a)(3) of Executive Order 11246 and proposed § 60–1.68(h) of these regulations to recommend to the EEOC that proceedings be instituted under Title VII of the Civil Rights Act of 1964. In addition, OFCCP also could refer such matters to financial institutions regulatory agencies.

OFCCP's opinion that deposit and share insurance are contracts within the meaning of the Order and sections 402 and 503 is contested by the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Board of Governors of the Federal Reserve System and the Comptroller of the Currency. These financial institutions regulatory agencies believe that deposit and share insurance are not contracts within the meaning of the Order and sections 402 and 503. These agencies and the Federal Home Loan Bank Board contend that only the financial institutions regulatory agencies themselves have the authority to debar, deny, suspend or terminate deposit or share insurance. All agencies will be free to argue their respective legal positions, if necessary, in any legal proceeding that may arise.

The December 30 rule removed a regulatory exemption presently applicable to public utilities operated by state and local governments. Consequently, such utilities would have been required to develop and implement written AAPs and file annual compliance reports. Today's proposal would delete that feature and thereby continue the exemption.

5. *Section 60–1.7.* Currently, § 60–1.7(a) requires contractors with 50 employees and a contract of $50,000 to file the Standard Form 100 (EEO–1

report). The December rule would require aggregation of contracts to reach the $50,000 level. It is proposed to raise the threshold for filing form EEO–1 to cover contractors having 100 or more employees and a contract of $50,000 or more. Unlike the December regulation, the proposal would not provide for aggregation of contracts. Establishment of a 100 employee threshold would make the reporting requirement consistent with the requirement imposed by the EEOC under Title VII of the Civil Rights Act of 1964, as amended.

Section 60–1.7(a) would also be amended to reflect that financial institutions subscribing to Federal deposit or share insurance would be subject to the EEO–1 requirement (see discussion of § 60–1.5, above).

Section 60–1.7(b) currently requires contractors and subcontractors to make certain certifications in their bids with regard to AAPs and other aspects of compliance. In addition, many prime contractors have been obtaining the same certifications for their subcontractors, resulting in a major paperwork burden for the submitting subcontractors and the receiving prime contractors. The Department is proposing elimination of the subcontractor certification requirement in § 60–1.7(b). The December 30 rule also dropped the certification.

6. *Section 60–1.8(b).* This section currently requires a certification that the contractor's facilities are not segregated. The proposal, like the December 30 regulation, would delete the certification, but would continue to require contractors to maintain non-segregated facilities. Contractors would also be required to ensure privacy between the sexes in toilet, changing and similar facilities.

7. *Section 60–1.9.* An amendment to this section would extend the provisions of this section to contracts covered by sections 402 and 503. In addition, the Director would give notice to collective bargaining representatives whenever compliance with the Order or sections 402 and 503 necessitates a revision of a collective bargaining agreement. Representatives of affected unions would have the right to present their views to the Director prior to any resolution between OFCCP and the contractor relating to such matters. The December rule contained two provisions which have been deleted from today's proposal. One provision would have required OFCCP to give written notice of a compliance review to collective bargaining representatives. The second provision gave unions a right to participate in conciliation discussions (in contrast to the opportunity to present their views to the Director) when terms or conditions of employment governed by a collective bargaining agreement were affected by compliance.

8. *Subpart B—Special Obligations Related to Sex Discrimination.* In the proposal published today, current Part 60–20 would be consolidated into Part 60–1 and its sections redesignated. This reorganization of the regulations (along with the consolidation of current Part 60–50 into Part 60–1) should facilitate use of the regulations by placing all the general requirements of contractors under Executive Order 11246 into a single Part of Chapter 60.

9. *Section 60–1.20(a) (currently § 60–20.6)).* Currently this section requires contractors to provide equal access to training programs for both sexes and to take affirmative action to recruit women for jobs where they are underutilized, prohibits distinctions based on sex in training, and provides general affirmative action guidance. The deferred final rule, published December 30, 1980 (see specifically 45 FR 86225 and 86250), would have reorganized this section and made minor language changes to improve clarity.

It is proposed to move the provision of current § 60–20.6(a) (§ 60–20.6(c) in the December 30 regulation) to § 60–1.20(a) to apply a general affirmative action requirement to recruit women for jobs in which they have previously been or are under represented, and to take affirmative action to encourage participation of women in training programs for jobs in which they have been previously excluded or are underutilized. Current § 60–20.6(c) would be deleted, since it duplicates nondiscrimination requirements stated in the Executive Order and elsewhere in the regulations (see, e.g., § 60–1.4 and Part 60–2). Current § 60–20.6(b) and the note accompanying § 60–20.6(a) would be deleted, since they provide guidance rather than actual requirements.

10. *Section 60–1.20(b) (currently § 60–20.2).* This section requires contractors to recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification, and prohibits advertisements for employment that express a preference by sex. It is proposed to retain paragraph (b) of this section to prohibit specifically sex-based advertising. Paragraph (a) of current § 60–20.2 would be deleted as a duplication of requirements of the Order and other sections of the regulations. The December rule made minor language changes in this section, but retained both paragraphs.

11. *Section 60–1.21 (currently § 60–20.3).* Only one substantive change, other than deletion of explanatory language and notes, is proposed for this section. Paragraph (c) of this section would be amended to reflect the decision of the Supreme Court in *Los Angeles Department of Water and Power v. Manhart*, 435 U.S. 702 (1978), regarding the payment by women of higher contributions to a retirement plan to obtain benefits equal to those paid to men. This proposal is essentially the same as the December rule.

12. *Section 60–1.22 (currently § 60–20.4).* This section would be moved and redesignated. Language in the December 30 regulation which requires contractors to provide appropriate relief would be eliminated because general statements concerning remedy appear at several other places in the regulations. Deletion of the language is merely in line with the goal of eliminating redundancy from the regulations.

13. *Section 60–1.1.23 (currently § 60–20.5).* References to the Wage and Hour Division, contained in the current regulation, would be deleted as outdated. The explanatory note would also be deleted. Certain language changes in this section by the December rule were perceived as an effort to cover the so-called "comparable worth" issue. The language revisions adopted in the Decmeber rule have been dropped.

14. *Section 60–1.24 (currently § 60–20.3(g)).* The proposed section would adopt most of the provisions of EEOC's guidelines (29 CFR 1604.10) on the Pregnancy Discrimination Act (PDA) (see 44 FR 23804, April 20, 1979). The PDA provides, *inter alia*, that the prohibition against sex discrimination contained in section 701 of the Civil Rights Act of 1964, as amended, includes discrimination "because of or on the basis of pregnancy, childbirth, or related medical conditions."

The proposal would not adopt, as did the December rule, the language contained at 29 CFR 1604.10(c), which requires that "Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates (the Order) * * * if it has a disparate impact on employees of one sex and is not justified by business necessity."

15. *Section 60–1.25.* It is proposed to add a new section relating to sexual harassment and favors. This section would also be essentially consistent with guidelines adopted by EEOC on the subject (29 CFR 1604.11). The Section is designed to protect employees from the sexual advances of persons who are in a position to affect their employment opportunities, as well as to prohibit

employment decisions based upon sexual favors.

The rule proposed today would make the contractor liable for the acts of its officials, managers, and supervisors when they engage in sexual advances or favors regardless of whether their specific acts were authorized by the contractor and whether the contractor knew or should have known of their occurrence. The contractor is also liable for acts of sexual harassment in the workplace by fellow employees where the contractor (or its officials, managers and supervisors) knows or should have known of the conduct and fails to take appropriate action.

The Department of Labor does not propose to adopt the provision of 29 CFR 1604.11(e), which makes the contractor liable under Title VII for acts of sexual harassment by non-employees. The December rule adopted the concept of holding the employer liable for the acts of its customers and clients.

16. *Section 60–20.1 (current regulation).* With the reorganization of Part 60–20 into Part 60–1, this section would be deleted as unnecessary.

17. *Subpart C—Special Obligations Related to Religion and National Origin Discrimination.* It is proposed to move the substantive provisions of Part 60–50, Guidelines on Discrimination Because of Religion or National Origin, to Part 60–1 as a new Subpart C, Special Obligations Related to Religion and National Origin Discrimination. Moving the substantive provisions of Part 60–50 to Part 60–1 is consistent with streamlining the regulations and would make them more understandable.

18. *Sections 60–50.1 and 60–50.4 (current regulations).* These sections, relating to purpose and scope and to enforcement, respectively, would be deleted as unnecessary.

19. *Section 60–1.30 (currently § 60–50.2).* This section, relating to equal employment policy, would be moved intact and redesignated.

20. *Section 60–1.31 (currently § 60–50.3).* This section, relating to accommodation to religious observance and practice, would be moved intact and redesignated.

(For information regarding current § 60–50.5 (Nondiscrimination), see Item 26 below relating to new § 60–1.51.)

21. *Subpart D—Ancillary Matters.* It is proposed to redesignate current Subpart C of Part 60–1 as new Subpart D. Section number designations would not be affected by this change.

22. *Section 60–1.40.* The Department proposes to raise the thresholds for written AAPs under the Executive Order to 250 or more employees and a contract of $1 million or more. The Department's intention in raising thresholds is to reflect the effect of inflation on the procurement process, and to lessen the burden of compliance upon smaller employers.

All comments pertaining to thresholds for written affirmative action program coverage are welcomed. To the extent that commentators have reliable data, or can suggest sources of reliable data, which are responsive to the questions set out below, that information would also be appreciated. OFCCP is specifically seeking comments on the following questions:

1. What criteria should be used for the establishment of thresholds for the development of written affirmative action programs?

2. Should the current thresholds be changed, and at what threshold levels would the program, contractors and the covered employees benefit most?

3. What effect will raising the current thresholds have on individual industries, e.g., banking, universities, utilities, etc.?

4. What effect will raising the current thresholds have on reducing paperwork burdens while still retaining the effectiveness of the compliance program?

5. What reasons for changing thresholds at this time should be taken into consideration?

6. How should small contractors be monitored for their affirmative action obligations if the thresholds are raised?

Explanatory language relating to the analytical prerequisites for developing a written AAP, contained in § 60–1.40(a) of the current regulations, would be deleted.

Language in current § 60–1.40(b) would be moved to a new § 60–2.3(a).

A new paragraph (b) would be added to § 60–1.40 to provide for an abbreviated AAP for contractors having between 250 and 500 employees. More discussion of this provision is contained under Item 49, § 60–2.14.

The December rule expanded the $50,000 contract as the trigger for developing written AAPs by adopting an aggregation feature so that all contracts would be aggregated to reach the $50,000 threshold. In addition, construction contractors which held a $50,000 contract or contracts aggregating to $50,000 would be required to develop a written AAP for their noncraft employees if they had at least 50 such employees. Both features have been dropped from this proposal.

23. *Section 60–1.43.* This section presently requires access to the contractor's records for inspection and copying. Comparable provisions are contained in the sections 402 and 503 regulations. The proposal would amend the regulations by incorporating the sections 402 and 503 requirements into this section. The proposal would also include the present practice of interviewing employees as part of the compliance review.

The provision of the existing regulation that information obtained under this section will be used only in connection with the Order and the Civil Rights Act of 1964 would be deleted from this section under today's proposal because, *inter alia*, a representation that the use of the information will be so limited could conflict with the Fredom of Information Act. Nevertheless, the Department of Labor is sensitive to contractor concerns regarding the possible confidentiality of data gathered in compliance reviews, and has taken steps to ensure that confidential data is not routinely released (see, e.g., the Decision and Administrative Order of the Secretary of Labor *In the Matter of U.S. Department of Labor, Office of Federal Contract Compliance Programs and University of California, Berkeley,* Case No. 78–OFCCP–7).

The December rule would have added computer tapes and printouts to the list of specific types of data contractors would produce in the investigation or compliance review. That feature is deleted from today's proposal. The Department does not intend that OFCCP be precluded from obtaining computer tapes and printouts in appropriate circumstances. However, due to possible greater problems with the confidentiality of these types of data, it is not appropriate for OFCCP to mandate access to computer tapes and printouts. In other respects, these changes are essentially the same as those contained in the December rule.

24. *Sections 60–1.44, 60–1.45, 60–1.46 and 60–1.47.* These sections relate to rulings and interpretations; adaptations of language in the Equal Opportunity Clause, in the Order, and the affirmative action clauses of sections 402 and 503; incorporation by reference; and incorporation by operation of law, respectively. The proposal would simply consolidate into Part 60–1 the rules on these matters which currently appear in Parts 60–1, 60–250 and 60–741. Similar changes were adopted in the December regulations.

25. *Section 60–1.48.* This section presently appears at § 60–1.24(c)(4). The present regulation allows a contractor to comply with the demands of OFCCP and then request a hearing. The December 28, 1979, proposal requested comments as to whether the regulation should be deleted or retained. The comments supported retaining the regulation. The

regulation is proposed to be retained, but would be transferred to § 60–1.48. In addition, a provision would be added to reflect the practice under this provision that hearings normally will be on the record before the Director. OFCCP will provide contractors with an opportunity to respond in writing to the government's charges before a decision is made. The December regulations also retained this provision.

26. *Section 60–1.51 (currently § 60–50.5).* Currently related only to discrimination because of religion and national origin, this section prohibits the use of the provisions of Part 60–50 to discriminate in employment on the basis of race, color, sex, religion or national origin. Relocated into Part 60–1 as a new § 60–1.51, this provision would be expanded to apply the prohibition to all provisions of Chapter 60 relating to the Executive Order and sections 402 and 503.

27. *Subpart E—General Enforcement, Review and Complaint Procedure.* Currently contained in Part 60–1 as Subpart B, this subpart would be relocated and all its section numbers redesignated. Throughout the Subpart, references to preaward reviews would be deleted to reflect the removal of the preaward procedure (see Item 29 below relating to existing § 60–1.20(d)).

28. *Section 60–1.60 (currently § 60–1.20(b)).* The last sentence of existing paragraph (b) would be deleted. It provides that in a conciliation agreement, the contractor shall be notified that taking the actions agreed upon "does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance." A complaint frequently registered by contractors is that this provision, in effect, provides OFCCP with the opportunity to void any conciliation agreement, leaving the contractor committed to a standard of compliance upon which it cannot rely. This is a new proposal.

29. *Section 60–1.20(d) (current regulations).* One of OFCCP's most controversial procedures has been the preaward review. Current regulations require OFCCP to conduct a preaward compliance review prior to the award of any supply and service contract or first-tier subcontract of $1 million or more (unless a review has been conducted within the previous 12 months). The preaward process imposes a substantial burden upon OFCCP to complete a preaward review within a short (30 day) timeframe.

Preawards have denied OFCCP discretionary use of scarce resources. In fiscal year 1980, OFCCP received 14,177 requests for clearance of contractors through the preaward process. Onsite compliance reviews were not required in most instances, but preaward clearance requests were responsible for the initiation of 594 onsite compliance reviews in the 1980 fiscal year.

In addition, when the preaward is conducted onsite, the regulations impose upon the contractor all of the burdens attached to a regular compliance review. Since many of the same companies continually receive large dollar volume contracts, the preaward requirement concentrates OFCCP's resources on the same contractors.

The December regulation raised the time elapsed since the last review to 24 months. In addition, it limited the size of the establishments subject to preaward reviews to those having at least 250 employees. However, that rule also permitted OFCCP, following certain guidelines, to conduct a preaward review regardless of whether a review had been conducted within 24 months or whether the affected establishment had fewer than 250 employees.

The Department proposes deletion of preaward reviews.

30. *Section 60–1.61 (currently §§ 60–1.21 and 60–1.22).* Current § 60–1.22 would be moved intact and redesignated. The time limitation for filing complaints, now contained in § 60–1.21, would be incorporated. This change was also adopted in the December regulation.

31. *Section 60–1.62 (currently § 60–1.23).* This section, which discusses the contents of complaints, would be amended to provide that complaints filed by third parties are permitted. This would permit a complaint alleging class type discrimination to be filed by third parties, provided that the alleged discriminatees are identified to the extent known. Individual complaints could be filed only by the discriminatee or the discriminatee's authorized representative.

With the exception of the feature requiring identification of alleged discriminatees, this change was adopted in the December rule. Although identification of alleged discriminatees in the complaint raises the risk of contractor retaliation against the alleged discriminatees, the regulations contain a specific prohibition (at § 60–1.28 in the existing regulation, § 60–1.67 as proposed today) against intimidation and interference.

Also, in describing the required contents of complaints it is proposed to substitute "a complete statement of the facts which, if true, would establish that the contractor violated the Executive Order, section 402 or section 503," for the existing language which requires "a description of the acts considered to be discriminatory."

32. *Section 60–1.63 (currently § 60–1.24).* OFCCP's past practice has been to retain, investigate and resolve all systemic and class complaints of discrimination. The proposed regulation would continue that practice, permitting OFCCP to refer individual complaints of discrimination to EEOC. To avoid duplication of effort and to ensure consistency in enforcement, however, EEOC could request that class complaints be referred. In resolving class complaints referred to EEOC at its request, OFCCP and EEOC would consult and coordinate with each other to ensure that the resolution of such complaints comports with the requirements of the two agencies.

The section would also provide that OFCCP would investigate and resolve individual complaints on file with OFCCP at the commencement of a compliance review, involving a particular establishment, if resolution of such individual complaints would not unduly delay completion of the compliance review. Also, the existence of unresolved individual complaints would not preclude a determination that the contractor's AAP is acceptable. Along with all Federal EEO agencies, OFCCP would make every effort to ensure that duplication of investigations is eliminated.

Current paragraph (c)(4) would be relocated and redesignated § 60–1.48 (see discussion in Item 25 above). Current paragraph (c)(5) would be relocated and redesignated § 60–1.66 (see Item 35 below). Aside from the proviso pertaining to acceptability of the contractor's AAP and the reorganization feature, the changes to this section were adopted in the December regulation.

33. *Section 60–1.64.* To provide clarification of the circumstances in which show cause notices and notices of violation are used, it is proposed to add a new § 60–1.64. Paragraph (a) would state the general instances under which show cause notices are to be issued. Paragraph (b) would provide exceptions to the general rule. Paragraph (c) would stipulate the timeframes for show cause notices and the required contents. Paragraph (d) would stipulate the circumstances under which a notice of violation would be used and the required contents of the notice. Paragraph (e) would stipulate that when compliance with a notice to show cause or a notice of violation necessitates a revision of collective bargaining agreement, the labor union or unions which are parties to such an agreement

must be given notice and an opportunity to present their position and supporting evidence to the Director prior to any resolution between OFCCP and the contractor relating to such matters. Paragraph (f) would outline the procedure to be followed when a concilation agreement is violated.

The December regulations were similar to the changes proposed herein. However, the December rule on this subject, like § 60–1.9, contained a requirement that unions be permitted to engage in conciliation when compliance may require changes in collective bargaining agreements. This feature has been dropped. However, in the proposal published today, unions would be permitted to present their positions to OFCCP.

34. *Section 60–1.65 (currently codified in part in § 60–1.33).* This section would consolidate the regulations dealing with the contents of conciliation agreements. The major amendments would state when conciliation agreements and letters of commitment are appropriate.

To clarify when a conciliation agreement becomes effective, paragraph (b) would state that the agreement becomes effective when signed by the contractor and the appropriate Assistant Regional Administrator (ARA). OFCCP practice has been to provide that conciliation agreements become effective unless rejected by the Director within 45 days of receipt by the Director. Contractors have often expressed the opinion that this procedure leads to uncertainty as to whether a conciliation agreement has been accepted, or even received, by the Director. To the extent that review of conciliation agreements by the Director is necessary, it may be accomplished prior to signing.

Paragraph (d), relating to letters of commitment, contains a requirement now found in § 60–1.33(b). However, it is proposed to amend the regulation to provide that when minor technical deficiencies are corrected before conclusion of the compliance review, neither a conciliation agreement nor letter of commitment would be required.

The proposal is essentially parallel to the December rule, but clarified language regarding the use of conciliation agreements, deletion of the 45-day rule, and the proviso pertaining to the correction of minor technical deficiencies are new.

35. *Section 60–1.66 (currently §§ 60–1.24(c)(5) and 60–1.25).* Concerning assumption of jurisdiction by the Director, paragraph (A) of this section as currently written was designed at a time when compliance responsibilities were assigned to various compliance agencies, and was intended to give OFCCP some control, in appropriate circumstances, over cases being processed by the former compliance agencies or which would normally be within the jurisdiction of a particular compliance agency. In a number of places in the regulations, the Director makes certain delegations; in order to avoid process questions which may arise from time to time, it is necessary to provide in the regulations a specific authority through which the Director may assume jurisdiction over matters pending in the agency.

Paragraph (b) is relocated from § 60–1.24(c)(5) and redesignated. The proposal is consistent with the December rule.

36. *Section 60–1.67 (currently § 60–1.32).* The present regulation prohibits intimidation or interference because an individual participates in compliance activities (e.g., filing a complaint, assisting in an investigation, etc.). The prohibition applies to such participation under Federal and state and local laws. The proposed amendment, like the December rule, would transfer comparable provisions in the sections 402 and 503 regulations to this section. The proposed amendment also would add a new provision which would prohibit a contractor from intimidating or interfering with an individual because he/she opposed an employment practice unlawful under and Federal or state or local law.

37. *Section 60–1.68 (currently § 60–1.26).* This section sets forth in general outline form the procedures governing legal proceedings to enforce the Order. The proposal would reorganize present regulations and would incorporate enforcement procedures for sections 402 and 503. The additions to the section would be paragraphs (h) and (i), relating, in part, to the issue of Federal deposit and share insurance. (For discussion of the deposit insurance issue, see Item 4, § 60–1.5.) The short form hearing procedure in the December regulation (§ 60–1.29(e)) has been dropped from the proposal.

38. *Section 60–1.69 (currently § 60–1.30).* The present regulation states that no contractor will be debarred without being afforded an opportunity for a hearing. A similar requirement is contained in the sections 402 and 503 regulations. The proposal would consolidate the requirements for each program into this section. In addition, the proposal would add the requirement that prime contractors would be notified when contractors are ineligible for subcontracts.

39. *Section 60–1.70 (currently § 60–1.31).* This section and comparable sections in Parts 60–250 and 60–741 presently provide that a debarred contractor may petition for reinstatement in a letter to the Director, and that the contractor must show that it has established and will carry out policies and practices in compliance with the Order, section 402, and section 503, as appropriate. The proposal would establish a single reinstatement procedure for each of the OFCCP programs. The contractor would have to demonstrate that it is entitled to reinstatement. The Director could require a compliance review before reinstating the contractor or remand the matter to the Administrative Law Judge (ALJ) before making a final determination on the petition for reinstatement. Also, any party or person who participated in a debarment proceeding would have a right to participate in the reinstatement procedure. This procedure was first adopted in the December rule.

40. *Section 60–1.71.* This section would establish that OFCCP will not seek back pay for a period longer than two years prior to the date on which OFCCP or its predecessor compliance agencies notified the contractor of a potential compliance problem involving back pay. OFCCP's practices in seeking back pay were based upon remedial provisions of the Fair Labor Standards Act, which provides for two years' relief for non-willful violations of the Act, and three years' relief for willful violations. The proposed standard is more consistent with Title VII of the Civil Rights Act of 1964. If back pay continues to be sought, it will be sought in appropriate circumstances whether they arise as a result of a complaint investigation or a compliance review. In order to ensure effective implementation of § 60–1.71, OFCCP will develop procedures for early notification to contractors of OFCCP's receipt of a complaint or discovery of other potential compliance problems. (Retention of the proposal regarding the limitations period may be affected by the ultimate resolution of the back pay issue as set out in the advance notice of proposed rulemaking referenced in this Preamble under SUPPLEMENTARY INFORMATION.)

41. *Section 60–2.1.* This section sets forth the purpose and scope of Part 60–2 (also known as Revised Order No. 4). The section would be amended to conform to amendments made to § 60–1.40 regarding thresholds for written AAP coverage and the application of the written AAP requirements to financial institutions. In addition, a new paragraph (c) would be added to provide that establishments within the same chain of command may, at the

discretion of the contractor, be consolidated into one written AAP. The effect of this provision would be to eliminate certain restrictions placed upon consolidation of establishments into an AAP contained in the December 30 regulations. The December 30 regulations limit consolidation to those establishments with fewer than 50 employees which are located within the same Standard Metropolitan Statistical Area or labor area.

The paragraph would provide that where establishments are consolidated into a single AAP, employment data relating to those establishments would have to be separately identified when the establishments are located in different recruitment areas. The public is specifically requested to comment upon the types of data that contractors should be required to keep separately for establishments located in different recruitment areas. Data which might be included in this requirement are availability analyses, workforce analyses, utilization analyses and goals and timetables.

Existing paragraph (b) would be redesignated paragraph (d). As discussed above in connection with § 60–1.40, the aggregation feature and written AAP requirement for noncraft employees of construction contractors adopted in the December regulation have been dropped from this proposal. See also the discussion of the definition of "establishment."

42. *Section 60–2.2.* It is proposed to transfer some of the current contents of § 60–2.2 to other sections, to delete other contents of current § 60–2.2, and to reserve the section number for possible future use. OFCCP does not require routine submission of contractors' written AAPs. Rather, AAPs are submitted upon request of OFCCP, at the commencement of a compliance review or complaint investigation. At the conclusion of the review, a determination is made as to whether the AAP is acceptable. If a field office or national office unit finds the AAP acceptable, current regulations give the Director of OFCCP 45 days in which to reject the AAP. The Department of Labor has determined that the 45-day review period is unnecessary to the Department and creates unnecessary confusion as to when a contractor's AAP has been accepted. This provision would be deleted. The December regulation did not delete this provision.

Paragraph (b) of the current § 60–2.2 provides for contractor "pass-overs" in certain instances, without a hearing, based on a finding of non-responsibility. It also provides for determinations of substantial issues of law or fact with regard to the contractor's responsibility. A determination that the contractor's responsibility raises substantial issues of law or fact has the effect of clearing the contractor for award pending a hearing on the issue. Since preaward reviews would be eliminated by the proposal published today (see Item 29, above) this procedure would no longer be necessary and would be deleted. The December rule also deleted this provision.

The December rule contained two additional provisions. The first, explaining the intention of § 60–1.40 and Part 60–2 as regards AAPs, would be relocated as an introduction to § 60–2.3. The second, providing for nationwide AAP formats or methodologies, would be relocated in § 60–2.3(d).

43. *Section 60–2.3.* This would be a new section entitled, "Maintenance of Programs." The introductory paragraph would be relocated from § 60–2.2 as published on December 30. Paragraph (a) of this new section would summarize the requirements of current § 60–1.40(c), continuing the requirement that the contractor maintain a written AAP at each establishment, and that the program be developed within 120 days of receipt of a government contract. (This provision should be read in conjunction with the proposed definition of "establishment" contained in § 60–1.3 and the provision in proposed § 60–2.1(c) which would permit consolidation of establishments into a single AAP.)

Paragraph (b) would continue the existing requirements for annual updating of the AAP, and would add a new provision that the entire AAP need not be rewritten annually. The new provision would reduce the contractor's paperwork burden by clarifying that the contractor may carry over portions of its AAP which remain unchanged (e.g. affirmative action policies, implementation procedures, etc.).

Paragraph (c) would provide for extended duration five-year AAPs under certain conditions. Additions to 41 CFR 60–250.4(a) and 60–741.4(a) would permit the use of five-year AAPs under sections 402 and 503. It is contemplated that, once a contractor establishment has received OFCCP approval for a five-year AAP, compliance reviews would not normally be conducted.

Under this proposal contractors eligible for a five-year AAP would be those which, as a result of an onsite compliance review, have been found by OFCCP to have in place an acceptable written AAP. In conducting the compliance review, the OFCCP would continue to follow its present policy of seeking information from the Equal Employment Opportunity Commission as to the pendency of complaints against the contractor. It is also proposed to require an approved linkage program or a training program which meets criteria to be established and published by the Director.

The public is specifically requested to comment upon the standards that OFCCP should use in approving and withdrawing approval of five-year AAPs, and what accountings contractors should be required to make to OFCCP during the five-year approval period. We particularly solicit responses to the following questions:

1. Should any special measures of compliance with the required ingredients of AAPs (see, e.g. §§ 60–2.11, 2.12 and 2.13) be used and, if so, what measures?

2. What would be appropriate standards for five-year approval in such areas as: contractor self-analysis; corrective action commitments; internal audit and reporting systems; and management and supervisory involvement in the development and execution of the AAP?

3. Should annual goals be initially established for the entire five-year period; should annual goals be updated each of the years of the five-year plan; or should this be left to the discretion of the contractor?

4. What, if any, additional standards should be part of a five year AAP eligibility, e.g., participation in the OFCCP/ETA Linkage Program, development of special training programs or community involvement?

5. What standards of compliance with the regulations under sections 402 and 503 should be required?

6. What procedures should be used if a contractor with an approved five-year AAP needs to change a portion of that AAP, e.g., should the contractor be able to change the program on its own or should the contractor be required to first obtain OFCCP approval?

7. What, if any, obligations of a continuing nature should a contractor with a five-year AAP be subject to, e.g., submission of EEO–1 or other reports?

8. For what reasons, if any, should OFCCP conduct an investigation of the contractor during the five-year approval period?

9. For what reasons, if any, should approval of a five-year AAP be withdrawn? If approval is to be withdrawn, what procedures should be used?

Paragraph (d) would provide for nationwide AAP formats or methodologies, and would be relocated from § 60–2.2 as published on December 30.

44. *Section 60–2.4.* The proposal would add a new section providing procedures for submitting the AAP and support data. Most of the procedures contained in this section of the proposal now appear in Part 60–60. The proposal would retain the present requirement of 30 days for submitting the AAP. The December rule shortened the time to 15 days.

45. *Section 60–2.5.* This section would continue the procedures in 41 CFR 60–60.4 regarding the confidentiality of data gathered in the compliance reviews. It would provide for coding data and making determinations of relevancy of data. The requirement that the confidentiality of data be maintained prior to determinations of relevency would also be retained. The December rule also retained these provisions.

46. *Section 60–2.10.* The proposal would add a new paragraph (b) providing that contractors having 250 or more employees but fewer than 500 employees may elect to develop an abbreviated AAP in accordance with new § 60–2.14 (see Item 49 below). This is a new proposal, and has no counterpart in the existing or December regulations.

47. *Section 60–2.11.* In the past the Department of Labor has interpreted this regulation to require a declaration of underutilization whenever current utilization of minorities or women was less then availability. This approach was frequently criticized by contractors which asserted, *inter alia,* that it was overly burdensome to require a declaration of underutilization (resulting in the requirement of goals and timetables and specific affirmative action measures) whenever there was not parity between availability and utilization. Today's proposal would provide that in the absence of compelling circumstances an establishment would be presumed to have reasonably utilized minorities and women when employment of minorities and women in a job group is at least 80% of their availability. Contractors would not be required to establish goals and timetables if the 80% standard was satisfied.

48. *Section 60–2.13.* Paragraph (h) of this section, which requires documentation of compliance with the Guidelines on Sex Discrimination, would be deleted as an unnecessary recordkeeping requirement. Since all contractors are covered by the non-discrimination and affirmative action provisions of the Order, specific compliance demonstration requirements regarding the sex discrimination guidelines are unnecessary. This proposal is new.

49. *Section 60–2.14.* This would be a new section titled "Abbreviated requirements for certain contractors." This new section would permit contractors with 250 or more employees but fewer than 500 employees and a contract of $1 million or more to elect to develop an abbreviated AAP. Such a program would consist of the contractor's equal employment opportunity policy, a workforce analysis as described in § 60–2.11(a), a utilization analysis by EEO–1 categories (rather than by job group as is now required under § 60–2.11(b)), goals and timetables by EEO–1 category where underutilzation is found, and a description of the contractor's procedures to implement its affirmative action obligations.

The abbreviated AAP provision would reduce compliance costs for small contractors without removing all written affirmative action obligations. Smaller contractors are not as well equipped as are larger contractors to develop full AAPs. In addition, the cost impact for developing a long-form AAP would be proportionally larger for smaller contractors. Smaller contractors, having generally lower turnover and simpler employment infrastructures than larger contractors, can utilize less complex analytical procedures to achieve their affirmative action obligations. In addition, the simplified procedures proposed for smaller contractors, by encouraging broad job groups for setting goals, would mininize fractional goals which result from small job groups.

50. *Section 60–2.14 (current regulation).* This section, which requires contractors to develop and submit an AAP summary, would be deleted. The Department of Labor considers this section to place an undue reporting burden upon contractors. The December regulation retained this provision.

51. *Part 60–2, Subpart C.* This subpart, entitled "Methods of Implementing the Requirements of Subpart B," would be deleted under today's proposal. Subpart C gives examples of the methods of implementing the requirements of a written AAP. The Department is of the opinion that contractors should be permitted to design their own methods of implementing the required ingredients of their AAPs. Contractors should be able to design implementation procedures best suited to the achievement of effective affirmative action considering their individual circumstances. The Department contemplates publishing the substance of Subpart C, as well as guidance removed from other portions of the regulations, in a series of interpretive bulletins. The December regulation did not delete Subpart C.

52. *Section 60–4.2.* Under the existing regulation all Federal and federally assisted construction contractors meeting the basic coverage threshold (a contract in excess of $10,000) are subject to all of the requirements, including minority and female utilization goals and specified affirmative action steps, contained in Part 60–4. The December 30 regulation did not make a change in this section.

The Department today proposes to establish two coverage thresholds for construction contractors. The first, or basic coverage threshold, would require the inclusion of the Equal Opportunity Clause in the Federal or federally assisted contract. Contractors meeting this threshold would be contractually subject to commitments not to discriminate and to take affirmative action, but would not be required to comply with the goals or the specific affirmative action steps contained in Part 60–4. The threshold amount for basic coverage would remain, as in the current regulation, at a contract in excess of $10,000.

The second threshold would apply to contractors with a Federal or federally assisted construction contract of $50,000 or more and which, during any consecutive 6 months during the 12-month period immediately preceding the award of the contract, employed craft workers (both on and off site, and including laborers) which worked a total of 20,000 or more hours. The 20,000 hour threshold was selected as an approximation of how many hours would be worked by 20 full time workers over a 6 month period. (It is assumed that, in general, employees work 2000 hours a year; that is, 40 hours multiplied by 50 weeks. Therefore, in six months, an average employee would work 1000 hours.) Contractors meeting the $50,000 contract/20,000 hour threshold would be subject to all of the requirements of Part 60–4.

Adoption of the dual thresholds would substantially reduce compliance burdens for small construction contractors. Similar dual thresholds have been used by OFCCP for many years in applying Executive Order requirements to supply and service contractors.

In order to carry out the dual threshold concept it is proposed to split the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246), found in § 60–4.2, into two parts. Part I, which would be inserted in all covered contracts (i.e., contracts in

excess of $10,000), would call the offeror's/bidder's attention to the Equal Opportunity Clause. Part II would be inserted in contracts of $50,000 or more, and would call the offeror's/bidder's attention to the $50,000 contract/20,000 hour threshold discussed above, and to the specific goals and affirmative action steps contained in Part 60–4.

Item 3 of the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity, requiring notification by the contractor to the Director of subcontract awards, would be deleted. This deletion is being proposed in the interest of reducing paperwork and reporting burdens, and would not substantively affect administration of the contract compliance program. Item 4 of the Notice of Requirement would be redesignated as Item 3 of Part II.

53. *Section 60–4.3.* The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246), found at § 60–4.3(a), would be amended to reflect the dual threshold approach discussed above (see Item 52). Only Federal and federally assisted construction contracts of $50,000 or more would be required to contain the Specifications. Although the Specifications would be inserted in all contracts of $50,000 or more, they would be applicable only when both the $50,000 and 20,000 hour thresholds were met.

Under the revision proposed today, the 16 affirmative action steps set out within paragraph 7 of the Specifications would be reduced to 9 steps. Paragraph 7b would be revised to require the contractor to actively seek and utilize alternative labor sources when traditional sources are unable to provide sufficient minorities or women to meet the contractor's goal obligations. Paragraph 7d would be simplified. Paragraph 7f would be rewritten to provide for more realistic distribution of the contractor's equal employment policy. Paragraph 7g would be rewritten to ensure that managers responsible for employment decisions be made aware of the contractor's EEO obligations. Paragraphs 7h, j, k, l, n, o, and p would be in part subsumed in the remaining paragraphs and in part eliminated. It should be noted that although step 7k (concerning construction contractors' compliance with the Uniform Guidelines on Employee Selection Procedures) would be eliminated, construction contractors are nevertheless subject to the Uniform Guidelines (see § 60–4.7). Step 7k is being eliminated merely to reduce redundancy. Also, the existing requirement that contractors "document" efforts under the affirmative action steps would be replaced by a requirement that contractors "be able to demonstrate" their efforts.

One of the most consistent complaints of construction contractors is that the exising affirmative action steps generate meaningless paperwork in documenting compliance, and do not effectively implement the intentions of the Order or regulations. As noted in the discussion on the deletion of Subpart C of Part 60–2 (see Item 50 above), the Department is of the opinion that contractors should be permitted to design their own methods of implementing the required ingredients of their AAPs. Contractors should be able to design implementation procedures best suited to the achievement of effective affirmative action considering their individual circumstances. Revision of the affirmative action steps for construction contractors is consistent with this approach. These issues were not treated in the December 30 regulations.

54. *Part 60–20.* Most of the provisions of current Part 60–20 (Guidelines on Sex Discrimination) would be moved to Subpart B of Part 60–1 and renumbered. The remaining sections would be deleted. The part separately designated as Part 60–20 would be deleted. (See discussion for Subpart B of Part 60–1.)

55. *Section 60–30.1.* The sections discussed in Items 55 through 66 (except for Item 64) basically repeat the changes which were made by the December 30 regulations. With regard to § 60–30.1, the proposal would add references to sections 402 and 503 to reflect that the rules of practice also govern hearings before Administrative Law Judges under these two programs.

56. *Section 60–30.3.* The proposal would exclude intermediate Saturdays, Sundays and legal holidays observed by the Federal government when the time for responding to a matter is less than seven days.

57. *Section 60–30.5.* The proposal would emphasize that notice rather than fact pleading would obtain under the rules of practice. The requirement of the existing regulations that an amended answer be responded to would be deleted.

58. *Section 60–30.7.* Because contractors have a right to an opportunity for a hearing initiated by an administrative complaint, the requirement that the Administrative Law Judge respond to the request for a hearing would be deleted. A requirement that the Administrative Law Judge conduct a final pretrial conference would be added.

59. *Section 60–30.8.* The proposal would require every reasonable effort by the Administrative Law Judge to dispose of all outstanding motions prior to the hearing. A new paragraph (c) would be added to require counsel to attempt resolution of discovery issues prior to filing motion to compel discovery.

60. *Section 60–30.9.* References to filing times would be deleted to conform the timeframes to the changes proposed for § 60–30.12(c)(3). The proposal would also require that discovery documents be filed with the Administrative Law Judge.

61. *Section 60–30.11.* Subsection (c) of this section would be amended to bring the rules for objecting to questions at depositions more closely into conformity with the Federal Rules of Civil Procedure.

62. *Section 60–30.12.* This section would be amended by adding a new paragraph (c) to contain mandatory requirements for a final prehearing conference and the exchange of witness lists and hearing exhibits by the parties. In addition, it would provide for concluding discovery at least 30 days prior to the hearing or by such other time as ordered by the Administrative Law Judge.

63. *Section 60–30.15.* This section would be amended to add to the Administrative Law Judge's powers the authority to invoke a presumption that answers or actions ordered, if made, would be unfavorable or adverse to the party ordered to answer or act.

64. *Section 60–30.18.* The section would be amended by adding a reference to the Federal rules of Evidence as the normal applicable standard for evidence introduced at the hearing. In addition, it places specific limitations on the introduction of deposition testimony into evidence in lieu of oral testimony given at the hearing.

An appraisal of administrative litigation conducted under the three programs administered by OFCCP reveals that cases arising under these programs now present all of the issue complexities generally associated with litigation in the Federal court system, and all of the concomitant time and evidentiary problems. From the standpoint of all parties, application of the Federal Rules of Evidence, with its body of rules and case law, offers the greatest protection of rights while at the same time enhancing the efficiency of the administrative process by ensuring that only the most probative evidence is introduced. The latter element was not included in the December 30 regulations.

65. *Section 60–30.19.* This section would add a new requirement at the end

of paragraph (c) to the effect that "offer of proof" made during a hearing contain a specific statement regarding the significance of the excluded evidence.

66. *Section 60–30.30.* The proposal would provide for final administrative orders by the Under Secretary of Labor in the absence of the Secretary or when the Secretary disqualifies himself/herself for some reason. It would also mandate compliance with the consultation requirements of § 209(a)(5) of Executive Order 11246 before an order terminating, suspending, or cancelling contracts becomes effective.

67. *Section 60–30.32.* This section discusses the administrative complaint and answer under the expedited hearing procedures. Today's proposal would insert a new paragraph (c), which would permit the defendant to object to the use of the expedited hearing procedures as inapplicable or inappropriate to the issue(s) alleged in the administrative complaint. This is a new regulatory proposal.

68. *Part 60–50.* Under the proposed revision, §§60–50.1 and 60–50.4 of the Guidelines on Discrimination Because of Religion and National Origin would be eliminated because they duplicate provisions contained elsewhere. Sections 60–50.2 and 60–50.3 would be moved to Part 60–1 as a new Subpart C. Section 60–50.5 would be moved to new Subpart D of Part 60–1 as § 60–1.51. Part 60–50, as a separately identified part, would be deleted.

69. *Part 60–60.* It is proposed to delete this Part from the regulations. However, as discussed herein, some of the sections of Part 60–60 which are regulatory in nature would be transferred to Parts 60–1 and 60–2. Appropriate procedures currently contained in Part 60–60 are now contained in the Federal Contract Compliance Manual. The December rule also deleted Part 60–60.

70. *Parts 60–250 and 60–741.* The proposal published today essentially follows the existing regulations in 41 CFR Parts 60–250 and 60–741, and continues the reformating adopted in the December 30 regulations. As noted in Item 1 above, portions of Parts 60–250 and 60–741 would be transferred to Part 60–1 to reflect OFCCP's consolidated approach to compliance under its three programs. Additionally, the thresholds for application of the written AAP requirement would be amended to remain consistent with practice under the Executive Order except for government bills of lading. Government bills of lading are accumulated under the Order to reach the dollar threshold but not under sections 402 and 503. This is a new provision not contained in the December 30 regulations. In addition, the aggregation of contracts to meet AAP thresholds as adopted in the December 30 regulations would be dropped for the reasons discussed above in connection with AAPs under the Executive Order. Several other non-substantive changes are proposed.

On December 30, 1980, the Department of Labor published in the **Federal Register** (at 45 FR 86206) a proposal to amend 41 CFR Parts 60–250 and 60–741. The amendment was intended to conform these regulations to the employment sections of the Department of Labor regulations implementing section 504 of the Rehabilitation Act published on October 7, 1980 (at 45 FR 66706). The proposed amendments are still under consideration by the Department, and are not reflected in the proposal published today.

III. Preliminary Regulatory Impact Analysis—Initial Regulatory Flexibility Act Analysis

The regulations proposed today would not appear to require a regulatory impact analysis under Executive Order 12291 because they would, if adopted, result in substantial cost savings for contractors without significantly affecting employee protections under Executive Order 11246. The proposed revisions would, in fact, substantially improve the overall administration of the Federal contract compliance program. Because of the interest of the public and of the government procuring agencies in the OFCCP program, the Department has, nevertheless, concluded that the regulation should be treated as a "major" rule under Executive Order 12291. Accordingly, the Department has prepared a Preliminary Regulatory Impact Analysis to identify and quantify where possible the cost impact of the proposed changes and various alternatives that were explored, and to inform the public of the economic considerations supporting these proposed revisions in accordance with Executive Order 12291.

The Department has combined its Preliminary Regulatory Impact Analysis with the required Initial Regulatory Flexibility Act Analysis (see 5 U.S.C. 603). Following is a summary of the Regulatory Impact/Regulatory Flexibility Analysis.

1. *Written AAP Thresholds:* The Department examined several possible increases in both the employment and contract size thresholds from present levels triggering written AAP requirements. The contract size thresholds considered included increases to $100,000, $250,000, $500,000, and $1,000,000 from the current $50,000 level. In addition, the Department considered raising the company employment threshold for requiring written AAPs from 50 employees up to 100 and 250 employee limits.

The proposed regulation uses $1,000,000 as the contract size threshold for requiring AAPs. Moreover, since the results in terms of both company and employee coverage are similar for both the 100 employee and 250 employee levels at this contract size, we selected the 250 employee limit. At the proposed levels, we estimate that the number of companies covered by written AAPs would be reduced from about 16,767 to about 4,143, although nearly 77 percent of the currently covered workers would remain covered under written AAPs.

2. *Grouping Establishments:* The Department also examined several possible alternative groupings of establishments for developing AAPs. Our review included allowing small establishments under 50 employees to be merged into other AAPs but dropping the December 30 references to geographic and labor market area restrictions as well as eliminating the establishment size restriction entirely provided that the establishments are within the same chain of command.

The reduction in AAPs is affected both by changes in thresholds values and by changes in the allowed consolidation of written AAPs. The proposed regulations would permit the consolidation of AAPs for all establishments in the same chain of command. This alone would reduce the number of required AAPs by 58,613. For the proposed thresholds and consolidation provisions combined, the total number of AAPs required drops from 107,915 to 23,740, a decrease of approximately 78 percent. If both proposals are adopted, annual costs would be reduced by approximately 45 percent from over $46.2 million to an estimated $25.8 million.

3. *Abbreviated AAPs:* The review considered using an abbreviated AAP for the smallest firms. Such a plan would consist of the contractor's equal opportunity policy, a work force analysis, a utilization analysis by broader job groups (defined by nine EEO–1 job categories), goals and timetables by EEO–1 category, and a description of the contractor's procedures for implementing its affirmative action obligations. The proposed changes, under which companies with between 250 and 499 employees could maintain abbreviated AAPs, would affect about 17 percent of the companies required to maintain

AAPs. This is projected to result in a cost savings of approximately $4.6 million.

4. *Elimination of EEO–1 Reporting Requirement for Small Contractors:* The agency has concluded that raising the employment threshold for filing the EEO–1 form to the 100 or more employees limit would provide more reporting consistency among Federal programs affecting equal employment opportunities and reduce unnecessary reporting burdens, particularly for smaller firms. In the proposed regulation, the aggregation provision contained in the December 30, 1980, regulation would also be deleted.

The Department estimated that raising the threshold would reduce the number of contractors required to file such forms by 3,221 contractors, from 16,767 companies to 13,546 companies, but would affect reporting for less than one percent of the work force. This produces an estimate of the annual cost savings of $25,000 from raising the EEO–1 reporting threshold.

5. *Elimination of Certification Requirements:* The current regulations require contractors and subcontractors to submit written certifications when bidding on contracts. These certifications stipulate whether the contractors have developed and have on file all required AAPs, whether they have previously participated in any contracts or subcontracts subject to the OFCCP program and whether they have filed all required forms. Elimination of this certification with respect to subcontractors (but not prime contractors) is projected to result in a cost savings in excess of $1.64 million.

In addition, contractors and their subcontractors must certify that they maintain non-segregated facilities. Elimination of this certification will result in an estimated savings of $1.69 million.

6. *Elimination of AAP Requirements for Nonconstruction Employees of Construction Contractors:* The current regulations, at Part 60–2, indicate that the AAP requirement applies only to nonconstruction contractors. The December regulation, however, would have brought construction contractors under the written AAP requirement if they had 50 or more nonconstruction employees in their workforce and construction contracts aggregating to at least $50,000. The proposed regulation would eliminate this extension of coverage to nonconstruction employees of construction contractors. This would result in estimated cost savings in excess of $62,000.

7. *Other Construction Industry Requirements:* Under current regulations, all contractors or subcontractors with Federal or federally-assisted construction contracts in excess of $10,000 in specified plan areas have established goals and timetables and must take 16 specific affirmative action steps to ensure employment opportunity. The December 30 regulation did not propose any changes to the affirmative action requirements for construction contractors under Part 60–4.

The proposed regulations would establish new thresholds for the applicability of goals and specific affirmative action steps to construction contractors. Affirmative action goals and the 16-step specifications, under the proposal, would apply to all Federal and federally-assisted construction contracts and subcontracts of $50,000 or more if, during any six consecutive months of the 12 calendar months preceding the award of the contract or subcontract, the contractor's or subcontractor's employment of craft workers (both on and off site, and including laborers) totalled 20,000 or more hours. This work hour concept is essentially equivalent to a 20 employee threshold.

The proposed regulations would also lower other paperwork and reporting burdens in the construction industry, including reducing the current 16 affirmative action steps required of construction contractors to nine steps, and by permitting the contractor to "demonstrate" rather than "document" its actions under the steps. The Department believes that this reduction will substantially reduce the paperwork load currently required without adversely affecting basic affirmative action objectives in the construction industry.

While it is not possible to estimate the dollar savings attached to this proposal, the Department believes that the cost savings would be large.

Copies of the complete analysis may be obtained from the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. The Department requests comments and additional information on all economic assumptions used in the analysis as well as any alternative suggestions designed to achieve the objectives of Executive Order 11246 at lower costs.

IV. Preparation of This Document

This document was prepared under the direction and control of Robert B. Collyer, Deputy Under Secretary of Labor for Employment Standards, and Ellen M. Shong, Director, Office of Federal Contract Compliance Programs, with the assistance of the Office of the Solicitor of Labor.

V. Further Suspension of the Effective Date of the Rule

In view of the publication of these proposed revisions to 41 CFR Chapter 60, the effective date of the final regulations published on December 30, 1980 (at 45 FR 86216) is further suspended until the Department of Labor takes final action on the proposed revisions contained herein.

VI. Proposed Rule

Accordingly, it is proposed to revise the December 30, 1980, regulation (at 45 FR 86216) and 41 CFR Parts 60–1, 60–2, 60–4, 60–20, 60–30, 60–50, 60–60, 60–250 and 60–741 as set forth below.

Signed at Washington, D.C., this August 18, 1981.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary of Labor for Employment Standards.

Ellen M. Shong,

Director, Office of Federal Contract Compliance Programs.

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

Part

60–1 Obligations of contractors and subcontractors.
60–2 Affirmative action programs.
60–4 Construction contractors—affirmative action requirements.
60–30 Rules of practice for administrative proceedings to enforce equal opportunity under Executive Order 11246, Section 402 and Section 503.
60–250 Affirmative action obligations of contractors and subcontractors for disabled veterans and veterans of the Vietnam era.
60–741 Affirmative action obligations of contractors and subcontractors for handicapped workers.

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

Subpart A—Preliminary Matters; Equal Opportunity Clause; Compliance Reports

Sec.

60–1.1 Purpose and application.
60–1.2 Administrative responsibility.
60–1.3 Definitions.
60–1.4 Equal opportunity clause.
60–1.5 Exemptions.
60–1.6 [Reserved]
60–1.7 Reports and other required information.
60–1.8 Segregated facilities.
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60–1.69 Debarment and contract ineligibility list.
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60–1.71 Back pay.

Authority: Sec. 201, 202, 205, 211, 301, 302, 303, 401, E.O. 11246 (30 FR 12319), as amended by E.O. 12086; Sec. 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012); Sec. 503 of the Rehabilitation Act of 1973, (29 U.S.C. 793), as amended by Sec. 111(a), Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706) and by Sections 119 and 122 of the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 and Executive Order 11758.

Subpart A—Preliminary Matters Equal Opportunity Clause: Compliance Reports

§ 60–1.1 Purpose and application.

(a) The purpose of the regulations in this part is to set forth the general obligations of Government contractors and subcontractors (hereinafter referred to simply as contractor; see definition of contractor in § 60–1.3) and of contractors performing on federally assisted construction contracts and subcontracts (hereinafter referred to simply as contract; see definition of contract in § 60–1.3) under Executive Order 11246, and to promote and ensure equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. The regulations in this part also set forth some general obligations which are equally applicable to contractors covered by section 503 of the Rehabilitation Act of 1973, as amended, and section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974. When the regulations in this part implement sections 402 and 503 the regulations expressly indicate that fact. Specific obligations of contractors covered under the three laws are set forth in other parts of the regulations in this chapter.

(b) The regulations in this part apply to all contracting agencies of the Government and to contractors which perform under Government contracts. The regulations in this part also apply to all agencies of the Government administering programs involving Federal financial assistance which results in a construction contract, to applicants seeking or receiving such assistance and to all contractors performing under construction contracts which are related to any such programs. The procedures set forth in the regulations in this chapter govern all disputes relative to a contractor's compliance with its obligations under the three laws regardless of whether its contract contains a "Disputes" clause. Failure of a contractor or applicant to comply with any provision of the regulations in this part shall be grounds for the imposition of any or all the sanctions authorized by the Order or by the regulations implementing sections 402 and 503. The regulations in this chapter do not apply in any action taken to effect compliance with respect to employment practices subject to Title VI of the Civil Rights Act of 1964. The rights and remedies of the Government hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation, or contract; neither do the regulations limit the exercise by the Secretary of powers not herein specifically set forth but granted to him/her by the Order or by sections 402 and 503.

§ 60–1.2 Administrative responsibility.

The Director has been delegated authority and assigned responsibility for carrying out the responsibilities assigned to the Secretary under the Executive Order, section 402 and section 503. All correspondence regarding these matters should be directed to the Director, Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

§ 60–1.3 Definitions.

As used in this chapter, "Act" means the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, (38 U.S.C. 2012), and the Rehabilitation Act of 1973, as amended, (29 U.S.C. 793), as applicable.

"Administering agency" for purposes of the Order means any department, agency or establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

"Administrative complaint" means the pleading which commences an administrative enforcement proceeding under the Order, section 402 or section 503.

"Administrative law judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and subpart B of part 930 of title 5 of the Code of Federal Regulations (see 37 FR 16787) and qualified to preside at hearings under 5 U.S.C. 557.

"Affirmative action clause" means the contract clause set forth at 41 CFR 60–250.3 or at 41 CFR 60–741.3, as applicable.

"Agency" means any contracting or any administering agency of the Government.

"Applicant" means a person applying for Federal assistance involving, or which results in, a construction contract or a person who has received such assistance. "Applicant" also means a person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities. This interest might be expressed by completing an application form, or might be expressed orally, depending upon the contractor's practice.

"Complaint" means a charge filed with OFCCP by an employee, former employee, applicant for employment or by a third party alleging discriminatory

employment practices under the Order, or under section 402 or section 503.

"Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any Government contract or subcontract, and with respect to the Order, any federally-assisted construction contract or subcontract. The regulations in this chapter frequently refer only to contract. The word subcontract is subsumed under the word contract.

"Contracting agency" for purposes of the Order means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

"Contracting agency" for purposes of sections 402 and 503 means any department, agency, establishment or instrumentality of the United States, including any wholly owned government corporation, which enters into contracts.

"Contractor" means a Government contractor or subcontractor, and with respect to the Order, a federally-assisted construction contractor or subcontractor. For the purpose of Subpart E of this part and Part 60–30 of this chapter the term also includes any person who has held a contract. The regulations in this chapter frequently refer only to contractor. The word subcontractor is subsumed under the word contractor.

"Director" means the Director of the Office of Federal Contract Compliance Programs of the United States Department of Labor or his/her designee.

"Establishment," except as used in the definition of "administering agency" and "contracting agency" contained in this section, means the location of a contractor's business or operations generally having some component which exercises personnel authority and responsibilities.

"Equal opportunity clause" means the contract provisions set forth in section 202 of the Order, and in § 60–1.4(a) or (b), as appropriate.

"Facilities" means buildings, structures, equipment, roads, walks, parking lots or other real or personal property.

"Federally assisted construction contract" means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan insurance, or guarantee under which the applicant itself participates in the construction work.

"Government" means the Government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. But sections 402 and 503 do not apply to contracts for the use of real property. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the Government is the purchaser or seller. The term "Government contract" does not include (a) agreements in which the parties stand in the relationship of employer and employee and (b) federally assisted construction contracts.

"Handicapped individual" means any person who:

(a) Has a physical or mental impairment which substantially limits one or more major life activities; or

(b) Has a record of such impairment; or

(c) Is regarded as having such an impairment; however, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. A handicapped individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining, or advancing in employment because of a real or perceived handicap. (See Appendix A, attached to Part 60–741 of this chapter, for guidelines on the applications of this definition.)

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Order," "Executive Order," or "Executive Order 11246" means parts II, III, and IV of Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive Order amending such Order, and any other Executive Order superseding such Order. Order specifically includes the equal opportunity clause and the rules, regulations and orders issued pursuant to the Order. The short form reference of Order is used simply to avoid needless repetition of the above phrases.

"Person" means any natural person, corporation, partnership, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract and, for the purposes of Subpart B of this part and 41 CFR Part 60–30, any person who has held a contract subject to the Order or to sections 402 and 503.

"Qualified handicapped individual" means a handicapped individual as defined in § 60–1.3 who is capable of performing a particular job, with reasonable accommodation to his or her handicap.

"Qualified special disabled veteran" means a special disabled veteran as defined in § 60–1.3 who is capable of performing a particular job, with reasonable accommodation to his or her disability.

"Recruiting and training agency" means any person who refers workers to any contractor or who provides for employment by any contractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his/her designee issued pursuant to the Order.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Section 503" means section 503 of the Rehabilitation Act of 1973, as amended. The reference, section 503, specifically includes rules and regulations in this chapter promulgated pursuant to the Act.

"Section 402" means section 402 of the Vietnam Era Veterans' Readjustment Assistant Act of 1974, as amended. The reference, section 402, specifically includes rules and regulations in this chapter promulgated pursuant to the Act.

"Site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension,

demolition, or repair and any temporary location or facility at which a contractor or other participating party meets a demand or performs a function relating to the contract.

"Special disabled veteran" means (a) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (b) a veteran who was discharged or released from active duty because of a service-connected disability.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(a) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(b) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed: *Provided,* That sections 402 and 503 do not apply to contracts relating to real property.

"Subcontractor" means any person holding a subcontract and, for the purposes of Subpart B of this part, any person who has held a subcontract subject to the Order. The term "First-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

"United States" means the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

"Veteran of the Vietman Era" means a person who (a) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (b) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975. However, no veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

§ 60–1.4 Equal opportunity clause.

(a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the Order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applications for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) thorugh (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: Employment, upgrading demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous

places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee), refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Subcontracts.

Each nonexempt contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

Note.—See, also, § 60–1.46 and § 60–1.47 regarding incorporation by reference and incorporation by operation of law, respectively.

§ 60–1.5 Exemptions.

(a) *General.*—(1) *Transactions of $10,000 or under.* Contracts not exceeding $10,000, other than (i) Government bills of lading and (ii) contracts with financial institutions which serve as depositories of Government funds in any amount, or which serve as issuing or redeeming agents for U.S. savings bonds and savings notes or which subscribe to Federal deposit or share insurance, are exempt from the requirements of the Order. In determining the applicability of this exemption to any federally assisted construction contract, the amount of such contract rather than the amount of the Federal financial assistance shall govern. No agency or contractor shall procure supplies or services in a manner so as to avoid applicability of the order.

(2) *Contracts for indefinite quantities.* With respect to contracts for indefinite quantities (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed $10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds $10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside of the United States.* Contracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside of the United States by employees who were not recruited within the United States.

(4) *Contracts with state or local governments.* The Order, and sections 402 and 503, with respect to a contract with a state or local government (or any agency thereof) shall apply only to the agency or agencies of such government which perform on the contract. Agencies, instrumentalities or subdivisions of state or local governments, except educational institutions, and medical facilities, are exempt from filing the annual compliance report required by § 60–1.7(a)(1) of this part and from maintaining a written affirmative action program prescribed by § 60–1.40 of this part and Part 60–2 of this chapter.

(5) *Contracts with certain educational institutions.* It shall not be a violation of the equal opportunity clause for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion. The primary thrust of this provision is directed at religiously oriented church-related colleges and universities and should be so interpreted.

(6) *Work on or near Indian reservations.* It shall not be a violation of the equal opportunity clause for a contractor to extend a publicly

announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word "near" would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such a preference shall not excuse a contractor from complying with the other requirements contained in this chapter.

(b) *Specific contracts and facilities*—(1) *Specific contracts.* The Director may exempt an agency or any person from requiring the inclusion of any or all of the equal opportunity clause in any specific contract or subcontract when he/she deems that special circumstances in the national interest so require. The Director may also exempt groups or categories of contracts or subcontracts of the same type where he/she finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the Order.

(2) *Facilities not connected with contracts.* The Director may exempt from the requirements of the equal opportunity clause any of a contractor's facilities which he/she finds to be in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided that he/she also finds that such an exemption will not interfere with or impede the effectuation of the Order.

(c) *National security.* Any requirement set forth in the regulations in this part shall not apply to any contract whenever the head of an agency determines that such contract is essential to the national security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(d) *Withdrawal of exemption.* When any contract is of a class exempted under this section, the Director may withdraw the exemption for a specific contract or group of contracts when in his/her judgment such action is necessary or appropriate to achieve the purposes of the Order. Such withdrawal shall not apply to contracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–1.6 [Reserved]

§ 60–1.7 Reports and other required information.

(a) *Requirements for contractors.* (1) Each contractor shall file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO–1) promulgated jointly by the Office of Federal Contract Compliance Programs and the Equal Employment Opportunity Commission or such form as may hereafter be promulgated in its place if such contractor has 100 or more employees; and (i) has a contract of $50,000 or more; or (ii) is a financial institution which serves as a depository for Government funds in any amount, acts as an issuing or redeeming agent for U.S. savings bonds and notes in any amount, or subscribes to Federal deposit or share insurance.

(2) Each contractor required by § 60–1.7(a)(1) to submit reports shall file such report within 30 days after the award to it of a contract unless such contractor has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60–1.7(a)(1), or at such other intervals as the Director may require. The Director may extend the time for filing any report.

(3) The Director or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director or the applicant deems necessary for obtaining compliance under the Order.

(4) Failure to file timely, complete and accurate reports as required constitutes noncompliance with the contractor's obligations under the Order and is ground for the imposition of any sanction authorized by the Order.

(b) *Requirements for bidders or prospective prime contractors* (1) *Certification of compliance with Part 60–2; Affirmative Action Programs.* Each contracting agency shall require each bidder or prospective prime contractor to state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs pursuant to Part 60–2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the Order; and (iii) whether it has filed with the Joint Reporting Committee, the Director or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

(2) *Additional information.* A bidder or prospective prime contractor shall be required to submit such information as the Director requests prior to the award of the contract. When a determination has been made to award the contract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the Director requests.

§ 60–1.8 Segregated facilities.

To comply with its obligations under the Order, a contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. This obligation extends to all contracts regardless of the amount of the contract. The term "facilities" as used in this section means waiting rooms, work areas, restaurants, and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees: *Provided,* That separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

§ 60–1.9 Compliance by labor unions and by recruiting and training agencies.

(a) The policy of OFCCP is to use its best efforts, directly and through agencies, contractors, applicants, state and local officials, public and private agencies, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts to cooperate with, and to comply in the implementation of, the purposes of the Order and of sections 402 and 503.

(b) To effectuate the purposes of paragraph (a) of this section, the Director may hold hearings, public or private, with respect to the practices and policies of any such labor union or recruiting and training agency.

(c) Whenever compliance with the Order or with section 402 or 503 necessitates a revision of a collective bargaining agreement the labor union or unions which are parties to such an agreement shall be given notice and an

opportunity to present their positions and supporting evidence to the Director prior to any resolution between OFCCP and the contractor relating to such matters.

(d) The Director may notify any Federal, state or local agency of his/her conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in his/her judgment has failed to cooperate with OFCCP, agencies, contractors or applicants in carrying out the purposes of the Order or of sections 402 and 503. The Director also may notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies when there is reason to believe that the practices of any such labor organization or agency violate Title VII of the Civil Rights Act of 1964 or other provisions of Federal law.

§ 60-1.10 Foreign government practices.

Contractors shall not discriminate on the basis of race, color, religion, sex, or national origin when hiring or making employee assignments for work to be performed in the United States or abroad. Contractors are exempted from this obligation only when hiring persons outside of the United States for work to be performed outside of the United States (see 41 CFR 60-1.5(a)(3)). Therefore, a contractor hiring workers in the United States for either Federal or nonfederally connected work shall be in violation of Executive Order 11246, as amended, by refusing to employ or assign any person because of race, color, religion, sex, or national origin regardless of the policies of the country where the work is to be performed or for whom the work will be performed. Should any contractor be unable to acquire a visa of entry for any employee or potential employee to a country in which or with which it is doing business, and which refusal it believes is due to the race, color, religion, sex, or national origin of the employee or potential employee, the contractor must immediately notify the Department of State and the Director of such refusal.

Subpart B—Special Obligations Related to Sex Discrimination

§ 60-1.20 Recruiting and training.

(a) The contractor shall take affirmative action to recruit women for jobs in which they previously have been excluded or are underrepresented. The contractor also shall take affirmative action to encourage the participation of women in training programs for jobs in which they have been previously excluded or are underrepresented.

(b) Advertisements in newspapers and other media for employment sponsored by or on behalf of contractors shall not depict, express a preference, or indicate that a particular sex is sought, desired or better suited for a particular job unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in columns headed "Male" or "Female," or similar wording will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

§ 60-1.21 Job policies and practices.

(a) Written personnel policies relating to this subject area must expressly indicate that there shall be no discrimination against employees on account of sex. If the contractor deals with a bargaining representative for its employees and there is a written agreement on conditions of employment, such agreement shall not be inconsistent with these regulations.

(b) Employees of both sexes shall have an equal opportunity to any available job that they are qualified to perform, unless sex is bona fide occupational qualification.

(c)(1) The contractor must not make any distinction based upon sex in employment opportunties, wages, hours or other conditions of employment, including fringe benefits. As the Supreme Court held in *Los Angeles Department of Water and Power* v *Manhart*, 435 U.S. 702(1978), fringe benefits for similarly situated men and women must be equal, notwithstanding that the contractor's contributions for men and women are unequal.

(2) [Reserved.]

(d) Any distinction between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex will be considered to be a distinction made on the basis of sex. Similarly, a contractor must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to members of the opposite sex.

(e) The contractor's policies and practices must assure appropriate physical facilities to both sexes. The contractor may not refuse to hire men or women, or deny men or women a particular job because there are not restroom or associated facilities, unless the contractor is able to show that providing the facilities would be unreasonable for such reasons as excessive expense or lack of space.

(f) A contractor must not deny a female employee the right to any job that she is qualified to perform in reliance upon a state "protective" law.

(g) The contractor must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age.

(h) Nothing in this subpart shall be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the contractor in making specific assignments. The purpose of these regulations is to ensure that such distinctions are not based upon sex.

§ 60-1.22 Seniority system.

Where they exist, seniority lines and lists must not be based solely upon sex. Where such a separation has existed, the employer must eliminate this distinction.

§ 60-1.23 Discriminatory wages.

(a) The employer's wage schedules must not be related to or based on the sex of the employees.

(b) The employer may not discriminatorily restrict one sex to certain job classifications. In such a situation, the employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex.

§ 60-1.24 Pregnancy, childbirth and related medical conditions.

(a) Employees or applicants for employment shall not be denied employment because of pregnancy, childbirth or related medical conditions.

(b) Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accural of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities. Health insurance benefits for abortion, except where the

life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion, are not required to be paid by the contractor; nothing in this subpart, however, precludes the contractor from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

(c)(1) Any fringe benefit program, or fund, or insurance program which is in effect on October 31, 1978, which does not treat women affected by pregnancy, childbirth, or related medical conditions the same as other persons not so affected but similar in their ability or inability to work, must be in compliance with the provisions of § 60–1.24(b) by April 29, 1979. In order to come into compliance with the provisions of § 60–1.24(b) there can be no reduction of benefits or compensation which were in effect on October 31, 1978, before October 31, 1979, or the expiration of a collective bargaining agreement in effect on October 31, 1978, whichever is later.

(2) Any fringe benefit program implemented after October 31, 1978, must comply with the provisions of § 60–1.24 upon implementation.

§ 60–1.25 Sexual harassment and favors.

(a) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are violations of the Order when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of "unreasonably" interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

(b) A contractor is liable under the Order for the acts of its officials, managers and supervisors when these individuals engage in the activities described in paragraph (a) of this section, regardless of whether their specific acts were authorized or forbidden by the contractor and regardless of whether the contractor knew or should have known of their occurrence.

(c) With respect to conduct between fellow employees, a contractor is resonsible for acts of sexual harassment in the workplace where the contractor (or its officials, managers and supervisors) knows or should have known of the conduct and fails to take immediate and appropriate action.

(d) Where employment opportunity or benefits are granted because of an individual's submission to the contractor's sexual advances or requests for sexual favors, the contractor may be held liable under the Order for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

Subpart C—Special Obligations Related to Religion and National Origin Discrimination

§ 60–1.30 Equal employment policy.

(a) *General requirements.* Under the equal opportunity clause contained in section 202 of Executive Order 11246, as amended, contractors are prohibited from discriminating against employees or applicants for employment because of religion or national origin, and must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their religion or national original. Such action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Contractors shall review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention shall be directed toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below, in order to remedy existing deficiencies. It is not contemplated that contractors necessarily will undertake all listed activities. The scope of the contractor's efforts shall depend upon all the circumstances, including the nature and extent of the contractor's deficiences and the contractor's size and resources.

(1) Internal communication of the contractor's obligation to provide equal employment opportunity without regard to religion or national origin in such a manner as to foster understanding, acceptance, and support among the contractor's executive, management, supervisory, and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) Development of reasonable internal procedures to ensure that the contractor's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented.

(3) Periodically informing all employees of the contractor's commitment to equal employment opportunity for all persons, without regard to religion or national origin.

(4) Enlisting the assistance and support of all recruitment sources (including employment agencies, college placement directors, and business associates) for the contractor's commitment to provide equal employment opportunity without regard to religion or national origin.

(5) Reviewing employment records to determine the availability of promotable and transferable members of various religious and ethnic groups.

(6) Establishment of meaningful contacts with religious and ethnic organizations and leaders for such purposes as advice, education, technical assistance, and referral of potential employees.

(7) Engaging in significant recruitment activities at educational institutions with substantial enrollments of students from various religious and ethnic groups.

(8) Use of religious and ethnic media for institutional and employment advertising.

§ 60–1.31 Accommodations to religious observance and practice.

A contractor must accommodate to the religious observances and practices of an employee or prospective employee unless the contractor demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the contractor's business. As part of this obligation, a contractor must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as the Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the contractor's business. In determining the extent of the contractor's obligations under this section, at least the following factors shall be considered: (a) Business necessity (b) financial costs and expenses, and (c) resulting personnel problems.

Subpart D—Ancillary Matters

§ 60–1.40 Affirmative action programs.

(a) *Requirements of programs.* Each nonconstruction contractor which has 250 or more employees and (1) has a contract of $1 million or more; or (2) has Government bills of lading which, in any 12-month period total $1 million or more, or reasonably may be expected to total $1 million or more; or (3) is a financial institution which serves as a depository for Government funds in any amount, acts as an issuing or redeeming agent for U.S. savings bonds and savings notes in any amount, or subscribes to Federal deposit or share insurance, shall develop a written affirmative action program in accordance with Part 60–2 of this chapter for each of its establishments.

(b) *Abbreviated requirements for certain contractors.* Contractors covered by paragraph (a) of this section having 250 or more employees but fewer than 500 employees may elect to develop an abbreviated affirmative action program as described in § 60–2.14 of this chapter.

§ 60–1.41 Solicitations or advertisements for employees.

In solicitations or advertisements for employees placed by or on behalf of a contractor, the requirements of paragraph (2) of the equal opportunity clause shall be satisfied whenever the contractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses a single advertisement, and the advertisement is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, color, religion, sex, or national origin;

(d) Uses a single advertisement in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 60–1.42 Notices to be posted.

(a) Unless alternative notices are prescribed by the Director, the notices which contractors are required to post by paragraphs (1) and (3) of the equal opportunity clause will contain the following language in English and Spanish and will be provided by the contracting or administering agencies:

Equal Employment Opportunity is the Law—Discrimination is Prohibited by the Civil Rights Act of 1964 and by Executive Order No. 11246

Private Industry, State, and Local Government

Title VII of the Civil Rights Act of 1964, as amended, prohibits job discrimination because of race, color, religion, sex or national origin.

Applicants to and employees of private employers, state/local governments, and public/private educational institutions are protected. Also covered are employment agencies, labor unions and apprenticeship programs. Any person who believes he or she has been discriminated against should contact immediately:

The U.S. Equal Employment Opportunity Commission (EEOC), 2401 E St. N.W., Washington, D.C. 20506.

Federal Contract Employment

Executive Order 11246, as amended, prohibits job discrimination because of race, color, religion, sex or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Section 503 of the Rehabilitation Act of 1973 prohibits job discrimination because of handicap and requires affirmative action to employ and advance in employment qualified handicapped workers.

Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment (1) qualified Vietnam era veterans during the first four years after their discharge and (2) qualified disabled veterans throughout their working life if they have a 30 percent or more disability.

Applicants to and employees of any company with a Federal Government contract or subcontract are protected. Any person who believes a contractor has violated its affirmative action obligations, including nondiscrimination under Executive Order 11246, as amended or under Section 503 of the Rehabilitation Act, or under Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 should contact immediately:

The Employment Standards Administration, Office of Federal Contract Compliance Programs (OFCCP), Third and Constitution Avenue, N.W., Washington, D.C. 20210 or an OFCCP regional office, listed in most telephone directories under U.S. Government, Department of Labor. Complaints specifically under the veterans' law may also be filed directly with the Veterans' Employment Service through local offices of the state employment service.

All complaints must be filed within 180 days from the date of the alleged violation.

(b) The requirements of paragraph (3) of the equal opportunity clause will be satisfied whenever the contractor posts copies of the notification prescribed by or pursuant to paragraph (a) of this section in conspicuous places available to employees, applicants for employment, and representatives of each labor union or other organization representing its employees with which it has a collective-bargaining agreement or other contract or understanding.

§ 60–1.43 Access to records and site of employment.

Each contractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews which include interviewing employees, inspecting, copying and removing off-site copies of such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order or with sections 402 and 503.

§ 60–1.44 Rulings and interpretations.

Rulings under or interpretations of the Order and of sections 402 and 503 shall be made by the Director.

§ 60–1.45 Adaptation of language.

Such necessary changes in language may be made in the equal opportunity clause of the Order and in the affirmative action clauses of sections 402 and 503 as shall be appropriate to identify properly the parties and their undertakings.

§ 60–1.46 Incorporation by reference.

The equal opportunity clause and the affirmative action clauses may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts as the Director may designate.

§ 60–1.47 Incorporation by operation of law.

By operation of the Order and sections 402 and 503, the equal opportunity clause of the Order and the affirmative action clauses of sections 402 and 503 shall be considered to be a part of every contract and subcontract required by the Order and sections 402 and 503 to include such clauses regardless of whether the clauses are physically incorporated into such contracts and regardless of whether the contract is written.

§ 60–1.48 Request for hearing after compliance.

When a contractor, without a hearing, shall have complied with the

recommendations or orders of the OFCCP and believes such recommendations or orders to be erroneous, it shall, upon filing a request therefore within 10 days of such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action. Such hearings normally will be record hearings before the Director.

§ 60–1.49 Existing contracts.

All contracts in effect prior to October 24, 1965, which are not subsequently modified shall be administered in accordance with the nondiscrimination provisions of any prior applicable Executive Orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to Executive Order 11246. Complaints received by and violations coming to the attention of OFCCP regarding contracts and subcontracts which were subject to Executive Orders 10925 and 11114 shall be processed as if they were complaints regarding violations of Executive Order 11246.

§ 60–1.50 Delegation of authority by the Director.

The Director is authorized to redelegate the authority given to him/her by the regulations in this chapter. The authority redelegated by the Director pursuant to the regulations in this chapter shall be exercised under his/her general direction and control.

§ 60–1.51 Nondiscrimination.

The provisions of this chapter are not intended and shall not be used to discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, national origin, handicap or veterans status.

Subpart E—General Enforcement; Review and Complaint Procedure

§ 60–1.60 Compliance reviews.

(a) The purpose of a compliance review is to determine if the contractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, terminated, and otherwise treated during employment without regard to race, color, religion, sex, national origin, veteran status or handicap. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices and policies and conditions resulting therefrom. Compliance reviews normally are conducted in three stages (desk audit, on-site review and off-site analysis). The desk audit may be shortened or omitted, however, when an immediate on-site review (e.g., where intimidation is alleged or other circumstances do not permit a desk audit) is required.

(b) Compliance reviews generally are conducted under the direction of an OFCCP Assistant Regional Administrator, but the Director is authorized to designate other OFCCP officials for this purpose.

(c) Where deficiencies or violations are found, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the Order, section 402 or section 503, it must make a specific commitment, in a written conciliation agreement or a letter of commitment, as appropriate, to correct any such deficiencies or violations. Minor technical deficiencies usually may be resolved in a letter of commitment from the contractor. The agreement or letter must include the precise actions to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval by OFCCP, the contractor may be considered in compliance, on condition that the actions are faithfully taken.

§ 60–1.61 Filing complaints.

Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended by the Director for good cause shown. Complaints may be filed with the OFCCP, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or with any OFCCP regional or area office.

§ 60–1.62 Contents of complaint.

(a) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor committing the alleged discrimination, a complete statement of the facts which, if true, would establish that the contractor violated the Order, section 402 or section 503, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Signed third party complaints which allege class-type discrimination will be accepted, whether or not the third party signing the complaint is an authorized representative of all members of the class, provided that the alleged discriminatees are identified to the extent known, and that the other information required by this paragraph is included.

(b) If a complaint contains incomplete information, OFCCP shall seek the needed information from the person filing the complaint. In the event such information is not furnished within 60 days of the date of such request, the file may be closed.

§ 60–1.63 Processing complaints.

(a) *Complaints.* OFCCP may refer individual complaints to the Equal Employment Opportunity Commission (EEOC) for processing under Title VII of the Civil Rights Act of 1964, as amended, in lieu of processing them under the Order. Upon referring a complaint to the EEOC, OFCCP shall promptly notify the complainant. OFCCP also may transmit a copy of any complaint to EEOC and to any state or local agency with jurisdiction over the subject of the complaint.

(b) *Complaint investigations under the Order.* (1) OFCCP will normally retain and investigate class or systemic complaints. However, where EEOC is about to initiate or is in the process of an investigation of any contractor against which OFCCP has received a class complaint, OFCCP may, at the request of EEOC, refer the complaint to EEOC for processing in order to avoid duplication and to assure effective law enforcement. In resolving such class complaints, the agencies will consult and coordinate with each other to ensure that the resolution of the complaints comports with the law enforcement requirements of each agency.

(2) During a compliance review, OFCCP will investigate and resolve individual complaints on file with OFCCP and unresolved at the commencement of the compliance review: *Provided,* That resolution of such individual complaints does not unduly delay the completion of the compliance review. *Provided further,* That the existence of unresolved individual complaints shall not preclude a determination that the contractor's affirmative action program is acceptable. With regard to unresolved individual complaints which have been referred to EEOC, OFCCP will consult with EEOC at the commencement of the compliance review to determine whether EEOC or OFCCP will investigate and resolve such complaints.

(c) *Resolution of matters.* (1) If any complaint investigation indicates a violation of the Order, reasonable efforts shall be made to secure compliance through conciliation and persuasion. (2) Where any complaint

investigation indicates a violation of the Order and the matter has not been resolved by informal means, the matter may be referred to the Office of the Solicitor for consideration of legal enforcement proceedings.

§ 60–1.64 Show cause notices and notices of violation.

(a) *General Rule.* At the conclusion of a compliance review or complaint investigation conducted pursuant to the Order or sections 402 and 503, a notice to show cause or a notice of violation shall be served on the contractor if the deficiencies which were disclosed in the review or investigation have not been corrected through a conciliation agreement, letter of commitment or consent decree. Where appropriate, show cause notices may be used at any other stage of the review.

(b) *Show cause notices—exceptions to the general rule.* A notice to show cause why enforcement proceedings should not be initiated shall be used when an uncorrected deficiency is disclosed in a compliance review or complaint investigation, except when: (1) A notice of violation under paragraph (d) of this section is appropriate; (2) a violation of a conciliation agreement under paragraph (f) of this section is alleged; (3) one or more special violations as discussed in § 60–1.68(d) of this part is alleged; or (4) OFCCP contemplates judicial enforcement under § 60–1.68(f) of this part.

(c) *Show cause notices—contents and timeframes.* (1) A notice to show cause should contain:

(i) An itemization of the sections of the Order, sections 402 and 503, and of the regulations with which the contractor has been found in violation, with a description of the conditions, practices, facts, or circumstances which give rise to each violation;

(ii) A statement of the corrective actions proposed by OFCCP to achieve compliance;

(iii) A request for a written response to the findings, including commitments to corrective actions or the presentation of opposing facts and evidence; and

(iv) A suggested date for the conciliation conference.

(2) The contractor shall be accorded 30 days, or such longer period as may be authorized by the Director or his/her designee, to establish that it is not covered by or is in compliance with the Order and sections 402 and 503, or to enter into a conciliation agreement or letter of commitment.

(d) *Notice of Violation.* (1) A notice of violation may be used at any time during the compliance review or complaint investigation (e.g. where serious violations such as intimidation, or interference with the orderly process of the review or investigation are alleged). A notice of violation shall contain a short and plain statement of the deficiency adequate to put the contractor on notice of the violation with which it is charged. The notice shall accord the contractor a reasonable period of time (not to exceed 15 days) in which to respond and for conciliation.

(2) A notice of violation also may be used when the compliance review or complaint investigation discloses a violation of a matter which is the subject of a conciliation agreement, letter of commitment or consent or other decree between the contractor and the Department of Labor, the Attorney General acting on behalf of OFCCP, or a former compliance agency (see 41 CFR 60–1.64(b)).

(e) *Participation by collective bargaining representatives.* When compliance with a notice to show cause or a notice of violation necessitates revision of a collective bargaining agreement, the labor union or unions which are parties to such an agreement shall be given notice and an opportunity to present their positions to the Director prior to any resolution between OFCCP and the contractor relating to such matters.

(f) *Procedure when a conciliation agreement is violated.* When a conciliation agreement has been violated, the following procedures are applicable: (1) A written notice shall be sent to the contractor setting forth the violations alleged and summarizing the supporting evidence. The contractor shall have 15 days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

(2) During the 15-day period the contractor may demonstrate in writing that it has not violated its commitments.

(3) If the contractor is unable to demonstrate that it has not violated its commitments, or if the notice alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement contained in this chapter.

§ 60–1.65 Conciliation agreements.

(a)(1) A conciliation agreement is a written agreement between OFCCP and a contractor by which the contractor undertakes specific obligations to correct or remedy noncompliance with the Order or with sections 402 and 503. A conciliation agreement normally is required where a compliance review, complaint investigation or some other review discloses major substantive violations of the Order or of sections 402 and 503, and (i) the contractor is willing to correct the violations or deficiencies and (ii) OFCCP determines that a settlement (rather than formal enforcement) is appropriate.

(2) Examples of violations for which a conciliation agreement is required are: (i) Affected class and remedies associated with an affected class finding; (ii) failure to have a written affirmative action program containing the elements listed in 41 CFR 60–2.11 through 2.13 or 41 CFR 60–2.14, as applicable; (iii) failure to tke action specified in a previous letter of commitment and failure to show good cause therefor; and (iv) substantial deviation from a previous affirmative action program (e.g., failure to meet goals) and failure to show good cause for the deviation. The agreement shall provide for the remedial relief necessary to correct the violations or deficiencies, which may include priority rights to hire or promotion, training, back pay, front pay and retroactive seniority, etc., for an affected class or for individuals, as appropriate.

(b) A conciliation agreement shall include (1) A statement of each deficiency or violation; (2) the corresponding precise remedial action to be taken and a timetable for implementation; (3) a requirement for periodic reporting to OFCCP as to implementation of the agreement, if appropriate; and (4) a copy of the notice to show cause or notice of violation when such has been previously issued.

(c) A conciliation agreement is effective when it has been signed by the contractor and the proper Assistant Regional Administrator.

(d) Letters of commitment, in lieu of conciliation agreements, are appropriate for resolving violations other than major substantive violations: *Provided,* That neither a conciliation agreement nor letter of commitment shall be required when minor technical deficiencies are corrected before conclusion of the compliance review.

(e) Conciliation agreements and letters of commitment shall not be entered into after enforcement proceedings have been initiated. Settlements of enforcement proceedings by the Office of the Solicitor normally will be by consent decree.

60–1.66 Assumption of jurisdiction by the Director.

(a) The Director may inquire into the status of any pending matter. Where the

Director considers it necessary or appropriate to the achievement of the purposes of the Order or of sections 402 and 503, he/she may assume jurisdiction over the matter and proceed as provided in this chapter. Whenever the Director assumes jurisdiction over any matter, he/she may conduct, or have conducted, such investigation, hold such hearings, including record hearings, and hearings under § 60–1.9(b) of this part, make such findings, issue such recommendations and directives and take such other action as may be necessary or appropriate to achieve the purposes of the Order or of sections 402 and 503.

(b) For reasonable cause shown, the Director may, on his/her own motion or pursuant to a request, reconsider or cause to be reconsidered a matter arising under the Order or under sections 402 and 503 which presently is pending in OFCCP.

§ 60–1.67 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the Order, and in Parts 60–250 and 60–741 of this chapter may be exercised against any contractor or applicant which fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Order, sections 402 and 503 or any other Federal, state or local laws requiring equal employment opportunity. Such sanctions and penalties also apply to contractors or applicants which discriminate against a person because he or she has opposed any employment practice unlawful under the Order, sections 402 and 503, Title VII of the Civil Rights Act of 1964, as amended, or any other Federal, state or local laws.

§ 60–1.68 Enforcement proceedings.

(a) *General.* If, as a result of a compliance review, complaint investigation or some other review, OFCCP believes that the Order or that sections 402 and 503 have been violated, the matter may be referred to the Office of the Solicitor for consideration of legal enforcement proceedings.

(b) *Violations.* Violations may be found based upon, *inter alia*, any of the following: (1) The results of a compliance review or complaint investigation; (2) analysis of an affirmative action program; (3) the results of an on-site review of the contractor's compliance with the Order or of sections 402 and 503; (4) a contractor's refusal or failure to submit an affirmative action program; (5) a contractor's refusal or failure to permit an on-site compliance review or complaint investigation to be conducted; (6) a contractor's refusal or failure to maintain records and other information, or to supply copies of such records or information required to be maintained or supplied by the Order or by sections 402 and 503; and (7) any substantial or material violation of the contractual provisions of the Order or of the regulations implementing sections 402 and 503.

(c) *Administrative enforcement proceedings.* Administrative enforcement proceedings are brought by the Office of the Solicitor and shall be conducted under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity under Executive Order 11246, Section 402 and Section 503 contained in Part 60–30 of this chapter. Administrative enforcement proceedings may be commenced to enjoin violations of the Order or of sections 402 and 503, to seek appropriate relief (which may include back pay, front pay, retroactive seniority, training, priority rights to hire or promotion, etc., for an affected class or for individuals) or to impose sanctions.

(d) *Special violations.* If the contractor refuses or fails to (1) submit an affirmative action program; (2) supply copies of relevant records or other requested information; (3) allow OFCCP access to its premises for an on-site review or investigation; or if the contractor is being charged with intimidation or interference under § 60–1.67 of this part, and if conciliation efforts under this part are unsuccessful, administrative enforcement proceedings may be commenced without serving the contractor with a show cause notice or a notice of violation.

(e) *Judicial enforcement—referrals to the Department of Justice.* (1) Violations of the Order or section 402 or 503 or the threat of violations of the Order or section 402 or 503 may be referred to the Department of Justice for judicial enforcement. There are no procedural prerequisites to a referral to the Department of Justice.

(2) Whenever a matter has been referred to the Department of Justice for consideration of judicial proceedings, the Attorney General may bring a civil action against the contractor or any other person in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order or section 402 or 503, or any of the above.

(3) The Attorney General is authorized to conduct such investigation of the facts as he/she may deem necessary or appropriate to carry out his/her responsibilities under these regulations.

(4) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Director, is authorized to make reasonable efforts to secure compliance with the contractual provisions of the Order or of the regulations implementing sections 402 and 503. He/she may do so by providing the contractor and any other person with reasonable notice of findings, his/her intent to file suit, and the actions he/she believes necessary to obtain compliance with the contractual provisions of the Order or of the regulations implementing sections 402 and 503 without contested litigation, and by offering the contractor and any other person a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(5) As used in this part, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(f) *Recommendations to the Attorney General for investigation and possible suit.* In addition to recommending that suit be instituted upon referral under 41 CFR 60–1.68(e) above, the Department of Labor may recommend that the Attorney General conduct further investigation of a contractor to determine whether there are substantial violations of the Order, section 402, section 503 or other contractual obligations assumed by the contractor that warrant the initiation of a lawsuit. Upon doing so the Department of Labor shall promptly notify the contractor of that recommendation. Upon receipt of such a recommendation the Attorney General is authorized to take any action, with respect to a contractor, which is authorized by a referral under 41 CFR 60–1.68(e) above.

(g) *Referrals to the Equal Employment Opportunity Commission.* The Department of Labor may recommend that the Equal Employment Opportunity Commission institute appropriate proceedings under Title VII of the Civil

Rights Act of 1964. In addition, and where appropriate, the Department of Labor will make such recommendations to the EEOC in connection with alleged violations by financial institutions whose only nexus to the Federal Government is Federal deposit or share insurance.

(h) *Referrals to financial institution regulatory agencies.* Where appropriate, the Department of Labor may refer alleged violation of the Order, section 402 or section 503 by financial institutions to the appropriate Federal financial institutions regulatory agency for actions under that agency's procedures. Whenever the Department of Labor refers a violation by a financial institution to the appropriate regulatory agency, the agency, after consultation with the Department of Labor, may take such action, in its sole discretion, as it deems appropriate. These agencies are: (1) Federal Home Loan Bank Board; (2) Federal Deposit Insurance Corporation; (3) Comptroller of the Currency; (4) the Board of Governors of the Federal Reserve System; and (5) the National Credit Union Administration

(i) *Enforcement policy regarding Federal deposit and share insurance.* The Department of Labor will not debar financial institutions (e.g., banks, savings and loan associations and credit unions) from future Federal deposit or share insurance, or cancel, terminate or suspend existing Federal deposit or share insurance. In the event that a financial institution which has Federal deposit or share insurance is alleged to be in violation of its contractual commitments under the Executive Order, section 402 or section 503, the Department of Labor will pursue one of the options mentioned in paragraphs (e), (g) and (h) of this section with respect to the deposit or share insurance relationship. Such recommendations or referrals as described in paragraphs (e), (g) and (h) of this section may take place without or after an administrative hearing in the Department of Labor.

§ 60–1.69 Debarment and contract ineligibility list.

No order for debarment from further Government contracts or subcontracts pursuant to section 209(a)(6) of the Order or pursuant to the regulations implementing sections 402 and 503 shall be made without affording the contractor an opportunity for a hearing, either administrative or judicial. The Director periodically shall distribute a list to all executive departments and agencies giving the names of contractors which have been declared ineligible under the Order or under sections 402 and 503 for further Government contracts and subcontracts. The Director shall promptly notify the Comptroller General of the United States when contracts have been cancelled or terminated or when a contractor has been debarred from further Government contracts under the Order or under sections 402 and 503. The Director shall take appropriate steps to notify prime contractors of the debarred contractor's ineligibility for subcontracts.

§ 60–1.70 Petition for reinstatement for debarred contractors.

(a) Any contractor declared ineligible under the Order or under section 402 or 503 for further contracts may petition the Director for reinstatement. A copy of the petition for reinstatement shall be served on the parties to the original proceeding which led to the debarment. The petition for reinstatement shall set forth what actions the contractor has taken to comply, as applicable, with the Order, section 402 or section 503 and in what way the contractor will comply with requirements which may involve future performance. The burden shall be on the contractor to demonstrate that it is entitled to reinstatement.

(b) Rescission of the debarment order and reinstatement of the contractor's eligiblity for further contracts may be conditioned on the contractor satisfying the Director that it has established and will implement personnel and employment policies in compliance with the provisions of the Order or of section 402 or 503. In carrying out his/her responsibilities under this section, the Director may require that compliance reviews be conducted of the contractor's establishments, and that the contractor supply copies of any information relevant to determining its compliance with the Order or with sections 402 or 503. Reinstatement also may be conditioned on a program of compliance which may include meeting requirements not specifically mentioned in the debarment order where meeting these requirements is necessary to achieve compliance under the Order or under section 402 or 503. Where the debarment was based on a determination of the contractor's liability but the extent of the relief or the number or identity of persons entitled to relief has not been determined or where there are other issues appropriate for hearing, the Director may remand the matter to the Administrative Law Judge for a recommended determination of such issues prior to reinstatement. On remand from the Director, the Administrative Law Judge shall follow the procedures in Part 60–30 of this chapter in making his/her recommended determination of the number or identity of the individuals entitled to relief and the amount of relief. Reasonable discovery shall be allowed on those issues. The matter shall then proceed in accordance with §§ 60–30.25 through 60–30.30 of this chapter. Reinstatement by the Director or Secretary, as applicable, may be conditioned on the contractor's satisfying any relief finally determined by the Secretary or Director, as applicable, to be owed.

(c) Any conditions upon which the rescission of the debarment order and reinstatement of the contractor are based shall be set forth by the Director or the Secretary, as appropriate, in an order which shall be filed with the Administrative Law Judge and made a part of the record in the original proceeding from which the debarment resulted. The Administrative Law Judge shall retain jurisdiction, and any subsequent violations involving the same issues which gave rise to the debarment order or which are included in the reinstatement order may be raised by motion in the original proceeding.

(d) The Director's or Secretary's decision on the petition for reinstatement shall constitute a final administrative order.

(e) Any party or person who participated (pursuant to 41 CFR 60–30.24) in the proceeding which gave rise to the debarment order may make submissions opposing or supporting the contractor's petition for reinstatement.

(f) When a debarred contractor is reinstated, the Director shall take prompt action to notify the contractors, Comptroller General and the agencies which received notice of the debarment.

§ 60–1.71 Back pay.

The regulations in this chapter require that in certain circumstances contractors proide back pay to persons who have suffered discrimination. OFCCP will not seek back pay for a period of more than two years prior to the date on which OFCCP (or its predecessor compliance agency) notified the contractor of a potential compliance problem involving back pay.

PART 60–2—AFFIRMATIVE ACTION PROGRAMS

Subpart A—General

Sec.

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60–2.20 Use of goals.
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Authority: 5 U.S.C. 553(a)(3)(B); 29 CFR 2.7; section 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

Subpart A—General

§ 60–2.1 Title, purpose and scope.

(a) The regulations in this part implement provisions of Executive Order 11246 only. This part shall also be known as "Revised Order No. 4" and shall cover nonconstruction contractors.

(b) Section 60–1.40 of this chapter requires that within 120 days from the commencement of a contract, each contractor which has 250 or more employees and (1) has a contract of $1 million or more; or (2) has contracts Government bills of lading which, in any 12-month period, total or can reasonably be expected to total $1 million or more; or (3) which is a financial institution which (i) serves as a depository of Government funds in any amount; (ii) acts as an issuing or redeeming agent for U.S. savings bonds and savings notes in any amount; or (iii) subscribes to Federal deposit or share insurance, shall develop, implement and maintain a written affirmative action program for each of its establishments. This part sets forth guidelines to be used by contractors and the OFCCP in developing and judging written affirmative action programs as well as the good faith effort required to transform these programs from paper commitments to equal employment opportunity.

(c) A contractor may, at its discretion, consolidate establishments located within the same chain of command into one written affirmative action program. Where a contractor consolidates establishments and the establishments are located in different recruitment areas, the employment data for each establishment shall be identified separately.

(d) Relief, including back pay, where appropriate, for members of an affected class or individuals who by virtue of past discrimination continue to suffer the present effects of that discrimination, shall be provided in the conciliation agreement entered into pursuant to 41 CFR 60–1.65 of this chapter. An affected class problem must be remedied before a contractor may be considered in compliance. Section 60–2.2 of this part, pertaining to an acceptable affirmative action program, also is applicable to a contractor's failure to remedy discrimination against members of an affected class.

§ 60–2.2 [Reserved]

§ 60–2.3 Maintenance of programs.

The intention of 41 CFR 60–1.40 and this part is that each contractor establishment will be covered by a written affirmative action program and that all the contractor's employees will be included in an affirmative action program regardless of where they work.

(a) Contractors currently subject to § 60–1.40 and Part 60–2 must have an affirmative action program in place at each establishment. If a contractor is not currently subject to § 60–1.40 and this part it must, within 120 days from the commencement of the contract, develop, implement, and maintain separate affirmative action programs, for each of its establishments (but see 41 CFR 60–2.1(b) regarding consolidation of establishments). A copy of the appropriate affirmative action program shall be maintained at each of the contractor's locations. An affirmative action program shall be part of the staffing and training plan for each new establishment and shall be developed and made available prior to the staffing of such establishment.

(b) A report of the results of the affirmative action program shall be compiled annually and appropriate parts of the program, e.g. workforce analysis, utilization analysis, goals and timetables, any changes in policies or procedures, etc., shall be updated at that time. It is not necessary that the entire affirmative action program be rewritten annually. Information on the contractor's affirmative action program and the results it produces shall be made available to OFCCP upon request and shall be evaluated as part of compliance review activities. But, see 41 CFR 60–2.3(c) regarding long term affirmative action programs.

(c) Five-year affirmative action program.

(1) *Criteria for approval.* Contractors may request approval of their affirmative action programs for a five-year period. If approval is granted, the contractor shall not be subject to routine onsite compliance reviews during the five-year period, except as is detailed in §§ 60–2.3(c) (3) and (4). The Director shall grant the contractor's request if, after an onsite compliance review (including investigation of outstanding class complaints on file at OFCCP and EEOC), the following criteria are met:

(i) The onsite review results in a finding of compliance;

(ii) The contractor's affirmative action program contains annual goals and timetables for each year of the five-year period, or contains goals and timetables for the first year of the period and an OFCCP approved method for determining goals and timetables for each succeeding year;

(iii) The contractor's affirmative action program contains a training program meeting the following criteria:

(A) An approved linkage program identifying private and/or public organizations that have agreed to assist the contractor in obtaining applicants or employees consistent with the contractor's affirmative action program; and/or

(B) An internal training program which meets criteria established and published by the Director;

(2) *Certificate of merit.* Upon successful completion of the five-year affirmative action program, the Secretary of Labor may award the contractor a U.S. Government Certificate of Merit pursuant to Subpart E of Part II of Executive Order 11246, as amended.

(3) *Contractor obligations during the five-year period.* During the five-year period, the contractor shall:

(i) Follow its affirmative action program (including any conciliation agreement(s) or letter(s) of commitment), updating goals and timetables and other contents as necessary;

(ii) File the Standard Form 100 (EEO–1 form) or its successor annually;

(iii) Upon expiration or modification of an approved linkage program or internal training program, notify OFCCP of the nature of the replacement or modification.

(4) *Resolution of complaints.* During the five-year period OFCCP shall continue to investigate complaints, or to refer them to EEOC in accordance with the Memorandum of Understanding between the two agencies. If OFCCP investigates a complaint, the following procedures shall apply:

(i) The complaint investigation shall be limited to the specific allegations of the complaint;

(ii) OFCCP shall provide the contractor with an opportunity to respond to the allegations of the complaint;

(iii) If violations are found, OFCCP shall attempt to conciliate the violations and enter into a conciliation agreement or other appropriate settlement in accordance with § 60–1.65;

(iv) If the complaint investigation also reveals substantial deviation from the five-year affirmative action program, OFCCP may proceed under § 60–2.3(c)(4);

(v) If conciliation fails, OFFCCP may commence enforcement proceedings.

(5) *OFCCP revocation of five-year affirmative action program.* If a complaint investigation or other evidence causes OFCCP to reasonably believe that the contractor has substantially deviated from a five-Year affirmative action program the following procedures shall apply:

(i) OFCCP may conduct an investigation of the contractor's implementation of its affirmative action program by, as appropriate:

(A) Requiring submission of data from the contractor's internal audit and review system; *Provided,* That the data requested are to be limited to those concerning the program (i.e., Executive Order 11246, section 402 or section 503) under which deviation from the five-year affirmative action program is alleged; and/or

(B) Conducting an onsite compliance review: *Provided,* That the review shall be limited to the program under which deviation from the five-year affirmative action program is alleged.

(ii) If the investigation indicates deviation from the five-year affirmative action program, OFCCP shall conciliate, taking one of the following actions:

(A) Where the deviations are not sufficiently serious to warrant a conciliation agreement and are resolved in accordance with § 60–1.65, the five-year affirmative action program shall not be revoked.

(B) Where the deviations require correction through a conciliation agreement, and the contractor enters into a conciliation agreement, the five-year affirmative action program shall be revoked, but no other enforcement action shall be taken.

(iii) Where a five-year affirmative action program has been revoked, the contractor shall not be eligible for another five-year affirmative action program for one year from the date of revocation, except where the contractor has demonstrated good cause to the Director.

(iv) If conciliation fails, OFCCP may commence enforcement proceedings.

(6) *Contractor discontinuance of five-year affirmative action program.* Any contractor may request discontinuance of its five-year affirmative action program. The contractor shall give the Director notice at least 90 days prior to the requested date of the revocation.

(d) Contractors may reach agreements with OFCCP on nationwide affirmative action program formats or methodology.

§ 60–2.4 Submission of affirmative action programs and support data.

(a) The contractor shall submit the affirmative action program and supporting documentation within 30 days of receipt of a request from OFCCP. The terms "affirmative action program" and "supporting documentation" refer to the required contents of Affirmative Action Programs, as set forth in Subpart B of this part.

(b) The contractor also shall submit the affirmative action program and supporting documentation upon OFCCP's request when a complaint is being investigated.

(c) The contractor in accordance with 41 CFR 60–1.43, shall provide full access to and copies of all additional, relevant information and data for the on-site phase of the review.

(d) The contractor shall provide, for off-site review, all data or information determined by the compliance officer to be necessary to analyze more fully alleged deficiencies or violations before a determination of compliance is made.

(e) If a contractor fails or refuses to submit its affirmative action program and supporting documentation or other information as required by paragraphs (a), (b), (c) and (d) of this section, enforcement proceedings authorized by this chapter may be initiated against the contractor after appropriate conciliation efforts have been attempted, without issuing a show cause notice or notice of violations.

§ 60–2.5 Confidentiality and relevancy of information.

(a) *Desk audit data.* If the contractor is concerned with the confidentiality of such information as lists of employees, employee names, reasons for termination and pay data, then alphabetical or numeric coding or the use of an index of pay and pay ranges are acceptable for desk audit purposes.

(b) *Data required for off-site analysis.* The contractor must provide all data determined by the compliance officer to be necessary for off-site analysis pursuant to § 60–2.3(d) of this part. Such data may only be coded if the contractor makes the code available to the compliance officer. If the contractor believes that particular information which is to be taken off-site is not relevant to compliance with the Executive Order, the contractor may request a ruling by the OFCCP Area Director. The OFCCP Area Director shall issue a ruling promptly. The contractor may appeal that ruling to the OFCCP Assistant Regional Administrator within 10 days of receipt. The Assistant Regional Administrator shall issue a final ruling promptly. Pending a final ruling, the information in question must be made available to the compliance officer off-site, but OFCCP shall take all necessary precautions to safeguard the confidentiality of such information until a final determination is made. Such information may not be copied and access to the information shall be limited to the compliance officer and personnel involved in the determination of relevancy. Data determined to be not relevant to the investigation will be returned to the contractor immediately.

(c) *Public access to information.* Information obtained from contractors under this chapter may be subject to public inspection under the Freedom of Information Act, 5 U.S.C. 552. If a contractor believes that information should be withheld from public inspection, it shall, at the time of submission of the information to the agency, clearly mark the materials "subject to a claim of confidentiality." If the agency receives a request from the public for such materials under the Freedom of Information Act, it will notify the contractor of the request and solicit a statement of reasons why the information should be withheld. As to any claim that the information contains trade secrets, or commercial or financial information which is privileged or confidential, the contractor shall set forth, with respect to each reasonably segregable portion of the materials, the manner in which it is claimed that release of the material would cause harm to the competitive position of the contractor. If information to which the contractor has filed an objection to disclosure is determined by OFCCP to be disclosable under 5 U.S.C. 552, the contractor shall be notified of such determination at least ten days prior to disclosure of the information.

Subpart B—Required Contents of Affirmative Action Programs

§ 60–2.10 Purpose of affirmative action program.

(a) An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits itself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to

make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to achieve prompt and full utilization of minorities and women, at all levels and in all segments of its work force where deficiencies exist.

(b) Contractors having 250 or more employees but fewer than 500 employees may elect to develop an abbreviated affirmative action program as described in § 60–2.14 of this part.

§ 60–2.11 Required utilization analysis.

Based upon the Government's experience with compliance reviews under the Executive Order program and the contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO–1) designations: Officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO–1 designations, women are likely to be underutilized in departments and jobs within departments as follows: Officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in its analysis and goal setting for minorities and women. Affirmative action programs must contain the following information:

(a) Workforce analysis which is defined as a listing of each job title as it appears in applicable collective bargaining agreements or payroll records (not job group) ranked from the lowest paid to the highest paid within each department or other similar organizational unit, including departmental or unit supervision. If there are separate work units or lines of progression within a department, a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles should be listed by department, job families, or disciplines, in order of wage rates or salary ranges. For each job title, the total number of incumbents, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be given: Blacks, Spanish-surnamed Americans, American Indians, and Orientals. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

(b) An analysis of all major job groups at the facility, with explanation if minorities or women are currently being underutilized in any one or more job groups ("job groups" herein meaning one or a group of jobs having similar content, wage rates and opportunities). "Underutilization" is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. In the absence of other compelling circumstances as determined by the Director, an establishment shall be presumed to have reasonably utilized minorities and women, and shall not be required to explain if minorities and women are being underutilized or to establish goals and timetables, for job groups in which the employment of minorities and women is at least 80% of their availability. In making the utilization analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining whether minorities are being underutilized in any job group, the contractor will consider at least all of the following factors:

(i) The minority population of the labor area surrounding the facility;

(ii) The size of the minority unemployment force in the labor area surrounding the facility;

(iii) The percentage of the minority work force as compared with the total work force in the immediate labor area;

(iv) The general availability of minorities having requisite skills in the immediate labor area;

(v) The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit;

(vi) The availability of promotable and transferable minorities within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

(2) In determining whether women are being underutilized in any job group, the contractor will consider at least all of the following factors:

(i) The size of the female unemployment force in the labor area surrounding the facility;

(ii) The percentage of the female workforce as compared with the total workforce in the immediate labor area;

(iii) The general availability of women having requisite skills in the immediate labor area;

(iv) The availability of women having requisite skills in an area in which the contractor can reasonably recruit;

(v) The availability of women seeking employment in the labor or recruitment area of the contractor;

(vi) The availability of promotable and transferable female employees within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to women.

§ 60–2.12 Establishment of goals and timetables.

(a) The goals and timetables developed by the contractor should be attainable in terms of the contractor's analysis of its deficiencies and its entire affirmative action program. Thus, in establishing the size of its goals and the length of its timetables, the contractor should consider the results which could reasonably be expected from its putting forth every good faith effort to make its overall affirmative action program work. In determining levels of goals, the contractor should consider at least the factors listed in § 60–2.11.

(b) Involve personnel relations staff, department and division heads, and local and unit managers in the goal-setting process.

(c) Goals should be significant, measurable, and attainable.

(d) Goals should be specific for planned results, with timetables for completion.

(e) Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.

(f) In establishing timetables to meet goals and commitments, the contractor will consider the anticipated expansion, contraction, and turnover of and in the work force.

(g) Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies.

(h) Where deficiencies exist and where numbers or percentages are relevant in developing corrective action,

the contractor shall establish and set forth specific goals and timetables separately for minorities and women.

(i) Such goals and timetables, with supporting data and the analysis thereof, shall be a part of the contractor's written affirmative action program and shall be maintained at each establishment of the contractor.

(j) A contractor or subcontractor extending a publicly announced preference for Indians as authorized in 41 CFR 60–1.5(a)(6) may reflect in its goals and timetables the permissive employment preference for Indians living on or near an Indian reservation.

(k) Where the contractor has not established a goal, its written affirmative action program must specifically analyze each of the factors listed in § 60–2.11 and must detail its reason for a lack of a goal.

(l) In the event it comes to the attention of the Office of Federal Contract Compliance Programs that there is a substantial disparity in the utilization of a particular minority group or men or women of a particular minority group, OFCCP may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such group for such job classifications and organizational units specified by the OFCCP.

(m) Support data for the required analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data will include but not be limited to progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios indicating minority and sex status.

(n) Copies of affirmative action programs and/or copies of support data shall be made available to the Office of Federal Contract Compliance Programs, upon request, for such purposes as may be appropriate to the fulfillment of its responsibilities under Executive Order 11246, as amended.

§ 60–2.13 Additional required ingredients of affirmative action programs.

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(b) Formal internal and external dissemination of the contractor's policy.

(c) Establishment of responsibilities for implementation of the contractor's affirmative action program.

(d) Identification of problem areas (deficiencies) by organizational units and job group.

(e) Establishment of goals and objectives by organizational units and job groups, including timetables for completion.

(f) Development and execution of action-oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(g) Design and implementation of internal audit and reporting systems to measure effectiveness of the total program.

(h) Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities and women.

(i) Consideration of minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures.

§60–2.14 Abbreviated requirements for certain contractors.

(a) *General requirements.* If a contractor employes 250 or more persons but fewer than 500 persons, and if the contractor does not expect its employment to equal or exceed 500 or more persons within the next 12 months, the contractor may elect to develop and maintain at each establishment an abbreviated affirmative action program as described in paragraph (b) of this section.

(b) *Required elements of an abbreviated affirmative action program.* The abbreviated affirmative action program developed and maintained for each establishment shall contain at least the following elements:

(1) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(2) A workforce analysis as described in § 60–2.11(a) of this part.

(3) A utilization analysis as described in § 60–2.11(b) of this part, except that jobs may be grouped and analyzed by EEO–1 category rather than by major job group.

(4) Where underutilization exists, goals and timetables developed in accordance with § 60–2.12 of this part to correct the underutilization.

(5) Procedures the contractor will undertake to ensure that the equal employment opportunity policy and affirmative action program are implemented.

(c) If at the anniversary date of the affirmative action program the contractor employs 500 or more persons, or if the contractor expects to employ 500 or more persons at any time during the succeeding 12 months, the contractor shall develop a full affirmative action program in accordance with §§ 60–2.11 through 60–2.13 of this part.

(d) Nothing in this section shall prohibit OFCCP, as a result of a compliance review or complaint investigation, from requiring the contractor to undertake specific good faith efforts to correct underutilization and ensure equal employment opportunity, and to provide appropriate remedial relief.

§ 60–2.15 Compliance status.

No contractor's compliance status shall be judged alone by whether or not it reaches its goals and meets its timetables. Rather, each contractor's compliance posture shall be reviewed and determined by reviewing the contents of its program, the extent of its adherence to this program, and its good faith efforts to make its program work toward the realization of the program's goals within the timetables set for completion.

Subpart C—Miscellaneous

§ 60–2.20 Use of goals.

The purpose of a contractor's establishment and use of goals is to ensure that it meet its affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

§ 60–2.21 Preemption.

To the extent that any state or local laws, regulations or ordinances, including those which grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, OFCCP will regard them as preempted under the Executive order.

§ 60–2.22 Supersedure.

All orders, instructions, regulations, and memorandums of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent herewith, including a previous "Order No. 4" from this office dated January 30, 1970. Nothing in this part is intended to amend 41 CFR Part 60–3.

PART 60–4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

Sec.

60–4.1 Scope and application.

60–4.2 Solicitations.
60–4.3 Equal opportunity clauses.
60–4.4 Affirmative action requirements.
60–4.5 Hometown plans.
60–4.6 Goals and timetables.
60–4.7 Effect on other regulations.
60–4.8 Show cause notice.
60–4.9 Incorporation by operation of the Order.

Authority: Secs. 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended, 30 FR 12319; 32 FR 14303, as amended by E.O. 12086.

§ 60–4.1 Scope and application.

This part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of $10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site construction including those construction employees who work on a non-Federal or nonfederally assisted construction site. This part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

In addition, this part applies to construction work performed by construction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

§ 60–4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the appropriate notice(s) set forth in paragraph (d) of this section and, when applicable, the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60–4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part. Administering agencies shall require the inclusion of the appropriate notice(s) set forth in paragraph (d) of this section and, when applicable, the specifications set forth in § 60–4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this Part 60–4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the appropriate notice(s) set forth in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d)(1) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000:

Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246) (Part I)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" set forth or referred to herein, which is applicable to all nonexempt Federal or federally assisted construction contracts and subcontracts exceeding $10,000.

(2) In addition to the notice set forth in paragraph (d)(1) of this section, the following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts of $50,000 or more to be performed in geographical areas designated by the Director pursuant to section 60–4.6 of this part:

Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Part II) (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein. The Specifications are applicable to all nonexempt Federal and federally assisted construction contracts and subcontracts of $50,000 or more if, during any 6 consecutive months of the 12 calendar months preceding the award of the contract, or subcontract the contractor's or subcontractor's employment of craft workers (both on and off site, and including laborers) totalled 20,000 or more hours.

The Offeror/Bidder shall state in writing, in its offer/bid, whether its craft employment totalled 20,000 hours or more in any 6 consecutive months of the preceding 12 months.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
.....	Insert goals for each year.	Insert goals for each year.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area if the contractor holds a Federal or federally assisted construction contract or subcontract of $50,000 or more, and if, during any 6 consecutive months of the 12 calendar months preceding the award of the contract or subcontract, the contractor's or subcontractor's employment of craft workers (both on and off site, and including laborers) totalled 20,000 or more hours. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60–4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60–4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60–4. Compliance with the goals will be measured against the total work hours performed.

3. As used in this Notice, and in the contract resulting from this solicitation, the

"covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

§ 60–4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60–1.4(a) of this chapter is required to be included in and is part of, all Federal contracts and subcontracts, including construction contracts and subcontracts in excess of $10,000. The equal opportunity clause published at 41 CFR 60–1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts in excess of $10,000. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts of $50,000 or more in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part and in construction subcontracts of $50,000 or more in excess of $10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive Order.

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

These specifications are applicable to all Federal and federally assisted construction contractors and subcontractors (i) having a construction contract or subcontract of $50,000 or more; and (ii) employing craft workers (both on and off site, and including laborers) for a total of 20,000 hours of work in any 6 consecutive month period during the 12 calendar months preceeding the award of the contract or subcontract.

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract of $50,000 or more the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through i of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the **Federal Register** in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor must be able to demonstrate fully its efforts under steps a. through i. below, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and at all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Actively seek and utilize alternative recruitment and labor sources for minority and female workers whenever traditional sources of labor are unable to supply sufficient numbers of minorities and women to fulfill the contractor's goal obligation under the Specification.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these

programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training, recruitment and outreach programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Ensure that all personnel making management and employment decisions regarding hiring, assignment, layoff, termination, conditions of work, training, rates of pay or other employment decisions, including all supervisory personnel, superintendents, general foremen, on-site foremen, etc., are aware of the contractor's EEO policy, and affirmative action obligations and discharge their responsibilities accordingly.

h. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

i. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through i). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through i of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60–4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in any easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60–4.2 and the specifications set forth in 41 CFR 60–4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60–4 become effective.

§ 60–4.4 Affirmative action requirements.

(a) To implement the affirmative action requirements of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in § 60–4.2 of this part and the specifications in § 60–4.3 of this part in lieu of the Hometown and Imposed Plans including the Philadelphia Plan and the Special Bid Conditions. Until the Director has issued an order pursuant to § 60–4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60–4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

(b) Signatories to a Hometown Plan (including heavy highway affirmative action plans) shall have 45 days from the effective day of the regulations in this part to submit under such a Plan (for the director's approval) goals and timetables for women and to include female representation on the Hometown Plan Administrative Committee. Such goals for female representation shall be at least as high as the goals established for female representation in the notice issued pursuant to 41 CFR 60–4.6. Failure of the signatories, within the 45-day period, to include female representation and to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance program's approval of the Hometown Plan. At any time the Office of Federal Contract

Compliance Programs terminates or withdraws its approval of a Hometown Plan, or when the plan expires and another plan is not approved, the contractors signatory to the plan shall be covered automatically by the specifications set forth in § 60–4.3 of this part and by the goals and timetables established for that geographical area pursuant to § 60–4.6 of this part.

§ 60–4.5 Hometown plans.

(a) A contractor participating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the plan: *Provided,* That each contractor or subcontractor participating in an approved plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60–1.4; to make a good faith effort to achieve the goals for each trade participating in the plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan it shall comply with the specifications set forth in § 60–4.3 of this part and with the goals and timetables for the appropriate area as listed in the notice required by 41 CFR 60–4.2 with regard to that trade. For the purposes of this Part 60–4, a contractor is not participating in a Hometown Plan for a particular trade if it:

(1) Ceases to be signatory to a Hometown Plan covering that trade;

(2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;

(3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;

(4) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;

(5) Is participating in a Hometown Plan for that trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;

(6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

(b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provisions of the Hometown Plan.

§ 60–4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects or construction contracts performed in specific geographical areas. The goals, which shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the **Federal Register**, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60–4.2. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed.

§ 60–4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly, 41 CFR 60–1.4 (a), (b), and (c); 60–1.5; 60–1.7; 60–1.8; 60–1.41; 60–1.42; 60–1.43; 60–1.46; 60–1.47; 60–1.48; 60–1.65; 60–1.67; 60–1.68; 60–1.69; 60–1.71; and 41 CFR Part 60–3; Part 60–30; Part 60–10 and subparts B and C of Part 60–1.

§ 60–4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive Order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i)–(iv) of 41 CFR 60–1.25(c)(1). If the contractor does not show good cause within 30 days, or in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make up goals and timetables, back pay, and seniority relief for affected class members, the OFCCP shall follow the procedure in 41 CFR 60–1.29: *Provided,* That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

§ 60–4.9 Incorporation by operation of the order.

By operation of the Order, the equal opportunity clause contained in § 60–1.4, the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in § 60–4.2, and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) contained in § 60–4.3 shall be deemed to be a part of every solicitation or of every contract and subcontract, as appropriate, required by the Order and the regulations in this chapter to include such clauses whether or not they are physically incorporated in such solicitation or contract and whether or not the contract is written.

PART 60–30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246, SECTION 402, AND SECTION 503

General Provisions

Sec.

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Authority: Secs. 201, 205, 208, 209, 301, 302(b) and 303(a) of the Executive Order 11246, as amended, 30 FR 12319; 32 FR 14303; § 60–1.66 of Part 60–1 of this chapter (41 CFR Part 60–1), as amended by E.O. 12086; Sec. 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012); sec. 503 of the Rehabilitation Act of 1973, (29 U.S.C. 793), as amended by sec. 111(a), Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706) and by secs. 119 and 122 of the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 and Executive Order 11758.

General Provisions

§ 60–30.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted to enforce equal employment opportunity under Executive Order 11246, section 402 of the Vietnam Era Veterans Readjustment Assistance Act and section 503 of the Rehabilitation Act. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure. This part is not applicable to hearings held by the Director under §§ 60–1.9, 60–1.67, or 60–1.48 of this chapter.

§ 60–30.2 Waiver, modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him/her modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 60–30.3 Computation of time.

In computing any period of time under the rules in this part or in an order issued hereunder, 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 legal holiday observed by the Federal Government in which event it includes the next business day. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays observed by the Federal Government shall be excluded from the computation.

§ 60–30.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless the Administrative Law Judge otherwise orders with respect to specific pleadings and papers in a specific case, all such papers and pleadings are public documents.

(b) *Service.* Service upon any party shall be made by the party filing the pleading or document by delivering a copy to the party or by mailing a copy to the party's last known address. When a party is represented by an attorney, service shall be made upon the attorney.

(c) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of service, shall be proof of service.

Prehearing Procedures

§ 60–30.5 Administrative complaint.

(a) *Filing.* The Solicitor of Labor, Associate Solicitor for Civil Rights and Regional Solicitors, upon referral from the Office of Federal Contract Compliance Programs, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, shall be designated as plaintiff.

(b) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the Order, or section 402 or 503. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government. The notice pleading contemplated by this paragraph (b) shall conform to notice pleading under the Federal Rules of Civil Procedure.

(c) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. If a response is required to an amended answer, such response shall be made within 14 days of service of the amended answer.

§ 60–30.6 Answer.

(a) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer; the answer shall be filed with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney, and served on the Government in accordance with § 60–30.4(b).

(b) *Contents; failure to file.* The answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or (2) state that the defendant admits all the allegations of the complaint. The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by

failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his/her decision in which he/she shall adopt as his/her proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to the decision and to file briefs in support of the exceptions.

§ 60-30.7 Notice of prehearing conference.

Within 45 days after the answer is filed, the Administrative Law Judge shall notice the parties for a prehearing conference. The Administrative Law Judge shall conduct a final prehearing conference in accordance with § 60-30.12(c)(1) of this part.

§ 60-30.8 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(b) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response. The Administrative Law Judge shall make every reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing: *Provided,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

(c) *Motions to compel discovery.* Prior to filing a motion to compel discovery under §§ 60-30.9 through 60-30.11 of this part, counsel for the moving party shall communicate with opposing counsel concerning the matter in dispute and attempt to resolve it. Counsel for the moving party shall file with the motion a certificate of compliance with this rule.

§ 60-30.9 Interrogatories and admissions as to facts and documents.

(a) *Interrogatories.* Any party may serve upon a party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections are to be signed by the attorney or by whomever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

(b) *Admissions.* Any party may serve upon a party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either (1) denying specifically the matter as to which an admission is requested, or (2) setting forth in detail the reasons why it cannot truthfully either admit or deny such matters.

(c) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

(d) *Filing with Administrative Law Judge.* All interrogatories and requests for admissions, and all responses thereto, shall be filed with the Administrative Law Judge and shall become a part of the record of the case.

§ 60-30.10 Production of documents and things and entry upon land for inspection and other purposes.

(a) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on its behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts, which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and which is in the possession or control of the party upon whom the request is served, for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or other failure to respond.

§ 60-30.11 Depositions upon oral examination.

(a) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding, and may use an administrative subpena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice shall also set forth the categories of documents the witness is to bring to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his/her name is unknown.

(b) *Production of witnesses; obligation of parties; objections.* It shall be the

obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(c) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. Errors which might be cured at the taking of the deposition, including errors in the manner of taking the deposition, in the form of the questions or answers, in the oath, or in the conduct of the parties, are waived unless objection is made at the taking of the deposition. All other objections may, in the discretion of the objecting party, be raised at the taking of the deposition or reserved until the hearing. All objections made at the taking of the deposition shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided,* That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his/her intention to invoke the presumption if no answer is forthcoming.

(d) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his/her direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he/she is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his/her certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order of the Administrative Law Judge for good cause shown.

(e) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the Administrative Law Judge finds: (i) That the witness is dead; or (ii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iii) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 60-30.12 Prehearing conferences.

(a) Upon his/her own motion or a motion of a party, the Administrative Law Judge may direct the parties or their counsel to meet with him/her for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulation, admissions of fact and contents and authenticity of documents;

(4) Limitation of the number of witnesses;

(5) Scheduling dates for the exchange of witness lists and of proposed exhibits; and

(6) Such other matters as may tend to expedite the disposition of the proceedings.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

(c)(1) A final prehearing conference shall be scheduled by the Administrative Law Judge a reasonable time in advance of the hearing to develop a prehearing order. The prehearing order shall contain any matters described in paragraph (a) of this section agreed upon by the parties or ordered by the Administrative Law Judge. The prehearing order also shall contain the general factual and legal contentions of the parties.

(2) Witness lists and hearing exhibits shall be exchanged at least 10 days in advance of the hearing, or such other later time as is set by the Administrative Law Judge. Each party shall provide to all other parties copies of all exhibits that it then plans to use at the hearing.

(3) All discovery should be concluded at least 30 days prior to the hearing or by such other later time as ordered by the Administrative Law Judge for good cause shown. Administrative Law Judges, however, shall allow adequate time for discovery.

§ 60-30.13 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) That any further procedural steps are waived; and

(4) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Administrative Law Judge for his/her consideration; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his/her decision based upon the agreed findings, and the decision shall constitute the final Administrative Order.

Hearings and Related Matters

§ 60-30.14 Designation of Administrative Law Judges.

Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and papers shall be filed with the Chief Administrative Law Judge.

§ 60-30.15 Authority and responsibilities of Administrative Law Judges.

The Administrative Law Judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He/she shall have all powers necessary to those ends, including but not limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his/her own motion;

(b) Require parties to state their position with respect to the various issues in the proceedings;

(c) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories, and requests for admission, in full and produce documents for examination and copying;

(d) Administer oaths;

(e) Rule on motions and other procedural items or matters pending before him/her;

(f) Regulate the course of the hearing and conduct of participants therein;

(g) Examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(h) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(i) Fix time limits for submission of written documents in matters before him/her and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters into evidence;

(2) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him/her;

(3) Expelling any party or person from further participation in the hearing; and

(4) Invoking a presumption that the answers or actions ordered if made, would be unfavorable or adverse to the party ordered to answer or act.

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(l) Recommend whether the defendant violated the Order, section 402 or section 503, as well as the nature of the relief necessary to ensure the full enjoyment of the rights secured by the Order, section 402 or section 503;

(m) Issue subpenas; and

(n) [Reserved]

(o) Take any action authorized by these rules.

§ 60-30.16 Appearances.

(a) *Representation.* The parties or other persons or organizations participating pursuant to this part 60-30 have the right to be represented by counsel.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present its evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

§ 60-30.17 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpena, setting forth the time, date, and place at which he/she is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him/her to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 5 days after

notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

§ 60-30.18 Evidence; testimony.

The Federal Rules of Evidence shall apply to proceedings under this part. If necessary, to achieve the ends of justice, such other rules or principles designed to assure production of the most probative evidence available may be applied. Testimony shall be given orally by witnesses at the hearing. Except as set forth in § 60-30.11(e), depositions may not be introduced into evidence in lieu of testimony given at the hearing. A witness shall be available for cross-examination, and, at the discretion of the Administrative Law 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. The Administrative Law Judge may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

§ 60-30.19 Objections; exceptions; offer of proof.

(a) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, it shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary. Exceptions to such rulings shall be filed in accordance with 41 CFR 60-30.28.

(c) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of references to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof. The offer of proof should clearly and specifically indicate the significance of the excluded evidence, unless the substance is apparent from the context. Allowance of an offer of proof is within the discretion of the Administrative Law Judge.

§ 60-30.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

§ 60-30.21 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

§ 60-30.22 Official transcript.

The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

§ 60-30.23 Summary judgment.

(a) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the defendant, the Government may move with or without supporting affidavits for a summary judgment upon all claims of any part.

(b) *For defendant.* The defendant may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(c) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or defendant, in accordance with this section, but may not move for summary judgment in its own behalf.

(d) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(e) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the defendant shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(f) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him/her and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He/she shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

§ 60-30.24 Participation by interested persons.

(a)(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative Order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under

this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state: (i) Petitioner's interest in the proceedings; (ii) who will appear for petitioner; (iii) the issues on which petitioner wishes to participate; and (iv) whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: *Provided,* That the representative of a labor organization qualifying to participate under paragraph (a)(1) of this section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on its petition; and if the petition is denied, he/she shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(b)(1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state: (i) The petitioner's interest in the hearing; (ii) who will represent the petitioner; and (iii) the issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he/she finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this section.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He/she may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He/she may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he/she shall serve a copy on each party.

Post-Hearing Procedures

§ 60-30.25 Posthearing briefs.

Each party and amicus may file a brief. The time for filing briefs shall be established by the Administrative Law Judge. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 60-30.26 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

§ 60-30.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record to the Secretary of Labor for a final Administrative Order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

§ 60-30.28 Exceptions to recommended decisions.

Within 30 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Secretary. Service of exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Secretary for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

§ 60-30.29 Record.

After expiration of the time for filing exceptions and responses, the Secretary shall make a final decision, which shall be the final Administrative Order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and responses filed subsequent to the Administrative Law Judge's decision.

§ 60-30.30 Final Administrative Order.

After expiration of the time for filing exceptions, and responses thereto, the Secretary or the Under Secretary, in the absence of the Secretary or if the Secretary disqualifies himself or herself for any reason, shall make a final Administrative Order which shall be served on all parties. If the Secretary concludes that the defendant has violated the Order, section 402 or section 503, an Administrative Order shall be issued which shall enjoin the violations, and require the contractor to provide whatever remedies are appropriate, and which shall impose whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate termination and suspension of the defendant's contracts and/or debarment of the defendant from further contracts: *Provided,* That the portion of any order under Executive Order 11246 terminating, cancelling, or suspending contracts shall not become effective until the consultation requirements of section 209(a)(5) of the Order, as amended by Executive Order 12086, have been satisfied.

Expedited Hearing Procedures

§ 60-30.31 Expedited hearings—when appropriate.

Expedited Hearings may be used, *inter alia,* when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

§ 60-30.32 Administrative complaint and answer.

(a) Expedited hearings shall be commenced by filing an administrative complaint in accordance with 41 CFR 60-30.5. The complaint shall state that the hearing is subject to these expedited hearing procedures.

(b) The answer shall be filed in accordance with 41 CFR 60-30.6 (a) and (b).

(c) If the defendant believes that the expedited hearing procedures are inapplicable or inappropriate to the issue(s) alleged in the administrative complaint, the defendant may, in a separate paragraph of its answer, object to the use of the expedited procedures. If an objection is filed, all further proceedings and all applicable time limitations shall be stayed pending the Administrative Law Judge's resolution of the objection. Before reaching a resolution the Administrative Law Judge shall permit all parties to present their views. In the discretion of the Administrative Law Judge, the presentation may be orally or in writing.

(d) Failure to request a hearing within the 20 days provided by 41 CFR 60-30.6(a) shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative Order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with § 60-30.36 of this Part.

(e) If a request for a hearing is received within 20 days as provided by 41 CFR 60-30.6(a), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

§ 60-30.33 Discovery.

(a) Any party may serve requests for admissions in accordance with § 60-30.9 (b) and (c).

(b) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(c) For good cause shown, and upon motion made in accordance with § 60-30.8, the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

§ 60-30.34 Conduct of hearing.

(a) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(b) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

§ 60-30.35 Recommended decision after hearing.

Within 30 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Secretary for a final Administrative Order. The recommended decision shall be served on all parties and amici to the proceeding.

§ 60-30.36 Exceptions to recommendations.

The provisions of 41 CFR 60-30.28 shall be applicable to exceptions to the Administrative Law Judge's recommendations.

§ 60-30.37 Final Administrative Order.

(a) After expiration of the time for filing exceptions, and responses thereto, the Secretary shall issue a final Administrative Order which shall be served on all parties. Unless the Secretary issues a final Administrative Order within 45 days after the expiration of the time for filing exceptions, and responses thereto, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 46th day after expiration of the time for filing exceptions and responses thereto. Except as to specific time periods required in this subsection, 41 CFR 60-30.30 shall be applicable to this subsection.

PART 60-60—CONTRACTOR EVALUATION PROCEDURES FOR CONTRACTORS FOR SUPPLIES AND SERVICES [REMOVED]

PART 60-250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

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Authority: Sec. 503(a), Pub. L. 92-540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by Sec. 402, Pub. L. 93-508, 88 Stat. 1593 (38 U.S.C. 2012).

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60-250.1 Purpose and application.

The purpose of the regulations in this part is to assure compliance with section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, which requires Government contractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this part apply to all Government contracts, including Federal deposit or share insurance, for the furnishing of supplies or services or for the use of personal property (including construction) for $10,000 or more.

§ 60-250.2 Coverage and waivers.

(a) *General.*—(1) *Transactions for less than $10,000.* Contracts and subcontracts for less than $10,000 are not covered by the Act. No agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) *Contracts for indefinite quantities.* With respect to indefinite delivery-type contracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $10,000. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any.

Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order is $10,000 or more. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside of the United States.* The requirements of the affirmative action clause are waived with respect to contracts with regard to work performed outside of the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the affirmative action clause in any contract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

(5) *Facilities not connected with contracts.* The Director may waive the requirements of the affirmative action clause with respect to any of a contractor's facilities which he or she finds to be in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor.

(b) *Waivers.*—(1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Director, may waive the application to any contract of any part of or all the affirmative action clause when he or she deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Director, may also grant such waivers to groups or categories of contracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of the Act.

(2) *National security.* Any requirement set forth in the regulations in this Part 60–250 shall not apply to any contract whenever the head of the contracting agency determines that such contract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any class of contracts under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Director may withdraw the waiver for a specific contract or group of contracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts awarded prior to the withdrawal, except that in procurement entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–250.3 Affirmative action clause.

Each agency and each contractor shall include the following affirmative action clause in each of its covered Government contracts (and modifications, renewals, or extensions thereof if not included in the original contract):

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all the suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. This listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once the contractor decides to consider applicants outside of its own

organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside of the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of its employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions including action for noncompliance.

§ 60–250.4 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract, every Government contractor which has 250 or more employees and has a contract of $1 million or more shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60–250.5 of this part. This program may be integrated into or kept separate from other affirmative action programs of the contractor which OFCCP requires it to maintain pursuant to this chapter. The provisions of 41 CFR 60–2.3(c), pertaining to long term affirmative action programs, shall apply to affirmative action programs required by this Part 60–250.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The contractor shall submit the affirmative action program within 30 days of receipt of a request from OFCCP. The contractor shall also submit the affirmative action program upon OFCCP's request when a complaint is being investigated or a preaward compliance review is being conducted.

(d) The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

(e) The contractor shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment and that it will be used only in accordance with the Act, and regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation (an acceptable form for such an invitation is set forth in Appendix A attached). Nothing in this section shall preclude an employee from informing a contractor at a future time of his or her desire to benefit from this program. Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

§ 60–250.5 Affirmative action policy, practices and procedures.

(a) *General requirements.* Under the affirmative action obligation imposed by the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, contractors are required to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era at all levels of employment, including the executive level. Such action shall apply to all employment practices, including, but not limited to, the following: Hiring, upgrading, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship and on-the-job training programs under 38 U.S.C. 1787.

(b) *Proper consideration of qualifications.* Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known disabled veteran applicants and Vietnam era veteran applicants for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. In determining the qualifications of a covered veteran, the contractor shall consider only that portion of the military record, including discharge papers, relevant to the specific job qualifications for which the veteran is being considered. To the extent that it is necessary to modify their personnel procedures, contractors shall include the

development of new procedures for this purpose in their affirmative action program required under this part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the Government. (Appendix B attached is an example of an appropriate set of procedures. The procedures in Appendix B are not required and contractors may develop other procedures which are appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to ensure that, to the extent qualification requirements tend to screen out qualified disabled veterans, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion, or training, to the extent that qualification requirements tend to screen out qualified disabled veterans, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans and regarding accommodations; and

(ii) first aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be informed.

(d) *Accommodation to physical and mental limitations of employees.* A contractor must make a reasonable accommodation to the physical and mental limitations of a disabled veteran unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) Business necessity and (2) financial costs and expenses.

(e) *Compensation.* In offering employment or promotions to disabled veterans, and veterans of the Vietnam era, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(f) *Outreach, positive recruitment, and external dissemination of policy.* Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified disabled veterans and veterans of the Vietnam era. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should develop internal communication of its obligation to engage in affirmative action efforts to employ qualified disabled veterans and veterans of the Vietnam era in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) The contractor should develop reasonable internal procedures to ensure that its obligation to engage in affirmative action to employ and promote qualified disabled veterans and veterans of the Vietnam era is being fully implemented.

(3) The contractor should periodically inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans and veterans of the Vietnam era.

(4) The contractor should enlist the assistance and support of all recruiting sources including as follows:

(i) The local Veterans Employment Representative or his or her designee in the State Employment Service Office nearest each establishment where hiring takes place to recruit job ready veterans and to develop on-the-job training opportunities for covered veterans wherever feasible;

(ii) The Veterans Administration Regional Office nearest each establishment to develop on-the-job training opportunities for covered veterans, and to recruit job ready veterans;

(iii) The office of the National Alliance of Businessmen nearest each establishment where hiring takes place in order to cooperate in the Jobs for Veterans' Program;

(iv) The veterans' counselors and coordinators ("Vet-Reps" and "VCIPS") on college campuses for the recruitment of covered veterans;

(v) The service officers of the national veterans groups active in the area of each establishment where hiring takes place for the recruitment of covered veterans; and

(vi) Local veterans' groups and veterans' service centers in the area of each establishment where employment services are performed near major cities, for the recruitment of covered veterans.

(5) The contractor should establish meaningful contacts with appropriate veterans' service organizations which service disabled veterans or veterans of the Vietnam era, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources listed in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(6) The contractor should review employment records to determine the availability of promotable and transferrable qualified known disabled veterans and veterans of the Vietnam era presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(7) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(8) The contractor should consider all qualified disabled veterans and veterans

of the Vietnam era not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor should adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of disabled veterans and veterans of the Vietnam era in company publications.

(9) Post the policy on company bulletin boards, including a statement that employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the Act.

(h) *Responsibility for implementation.* An executive of the contractor should be designated as director or manager of company affirmative action activities under these regulations. His or her identity should appear on all internal and external communications regarding the company's affirmative action programs. This executive should be given necessary top management support and staff to manage the implementation of this program, including the following activities:

(1) Develop policy statements, affirmative action programs, and internal and external communication techniques. The latter techniques should include regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed. In addition, supervisors should be advised that:

(i) Their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(ii) The contractor is obligated to prevent harassment of employees placed through affirmative action efforts, as set forth in 41 CFR 60–1.67.

(2) Identify problem areas in conjunction with line management and known disabled veterans, in the implementation of the affirmative action programs, and develop solutions. This is particularly important for the accommodation requirements.

(3) Design and implement audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(iv) Determine whether known disabled veterans and veterans of the Vietnam era have had the opportunity to participate in all company sponsored educational, training, recreational and social activities.

(v) Ensure that each location is in compliance with the Act and the regulations in this Part 60–250.

(4) Serve as liaison between the contractor and enforcement agencies.

(5) Serve as liaison between the contractor and organizations of and for disabled veterans and veterans of the Vietnam era, and arrange for the active involvement by company representatives in the community service programs of local organizations of and for disabled veterans and veterans of the Vietnam era.

(6) Keep management informed of the latest developments in the entire affirmative action area.

(7) Arrange for career counseling for known disabled veterans and veterans of the Vietnam era.

(i) *Development and execution of affirmative action programs.* (1) Job qualification requirements reviewed pursuant to paragraph (c) of this section should be made available to all members of management involved in the recruitment, screening, selection, and promotion process.

(2) The contractor should evaluate the total selection process including training and promotion to ensure freedom from stereotyping disabled veterans and veterans of the Vietnam era in a manner which limits their access to all jobs for which they are qualified.

(3) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to ensure that the commitments in its affirmative action program are implemented.

(4) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(5) A special effort should be made to include qualified disabled veterans or veterans of the Vietnam era on the personnel relations staff.

(6) Active participation in veterans "job fairs" is desirable.

(7) Recruiting efforts at all educational institutions should incorporate special efforts to reach disabled veterans and veterans of the Vietnam era.

(8) An effort should be made to participate in work-study programs with Veterans' Administration rehabilitation facilities which specialize in training or educating disabled veterans.

(9) The contractor should use all available resources to continue or establish federally assisted apprenticeship and on-the-job training programs under 38 U.S.C. 1787.

§ 60–250.6 Determination of disability.

Any disabled veteran filing a complaint under this part shall submit documentation from the Veterans Administration or military service from which the person was discharged or released which indicates the disability. Such documentation shall be updated within one year prior to filing the complaint if there has been a major change in the veteran's condition or if the Veterans Administration is reviewing the veteran's case.

Subpart B—General Enforcement and Complaint Procedure

§ 60–250.20 Subcontracts.

Each nonexempt contractor shall include the affirmative action clause prescribed in § 60–250.3 in each of its nonexempt subcontracts. The clause may be incorporated by reference in accordance with 41 CFR 60–1.46.

§ 60–250.21 Duties of agencies.

Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such

cooperation shall include the responsibility to ensure that contractors are fully cognizant of their obligations under the Act and this part, to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this part, and to take such actions for noncompliance as set forth in this chapter as may be ordered by the Director.

§ 60-250.22 Evaluations by the OFCCP Assistant Regional Administrators.

The Assistant Regional Administrators, OFCCP, shall be primarily responsible for undertaking compliance reviews and investigations of complaints against contractors as may be necessary to assure that the purposes of the Act are being carried out effectively.

§ 60-250.23 Complaint procedures.

(a) *Filing complaints.* Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended for good cause shown.

(b) *Where to file.* Complaints may be filed with the OFCCP, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or with any OFCCP regional or area office. Complaints also may be filed with the Veterans Employment Service of the Department of Labor. Complaints filed with the Veterans Employment Service shall be referred to OFCCP promptly for investigation.

(c) *Contents of complaints.* Complaints must be signed by the complainant or an authorized representative and must contain the following information. (1) Name and address (including telephone number) of the complainant; (2) name and address of the contractor who committed the alleged violation; (3) a description of the act or acts considered to be a violation; (4) a statement that the alleged discriminatee is a disabled or Vietnam era veteran; and (5) any other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted provided the other requirements of this paragraph are met. Signed third party complaints which do not identify the alleged discriminatee will be accepted, whether or not the third party signing the complaint is an authorized representative provided that the other information required by this paragraph is included.

(d) *Incomplete information.* If a complaint contains incomplete information, OFCCP shall seek the needed information from the person who filed the complaint. If the information is not furnished within 60 days of the date of the request, the file may be closed.

(e) *Investigations.* The OFCCP shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record.

(f) *Referral to contractor.* When a complaint concerns an employee of a contractor and the contractor has an applicable internal review procedure, the complaint may be referred to the contractor for processing under that procedure if the employee gives his/her consent. The contractor shall be informed of the elements of the complaint either by being furnished a copy or a sanitized version. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If the contractor is able to resolve the complaint to the satisfaction of the employee prior to the OFCCP investigation, the contractor shall notify OFCCP of the results in writing within 60 days of the referral. The case will be closed upon verification with the employee.

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations, or if the matter is not recommended to the Office of the Solicitor for legal enforcement proceedings, the matter shall be closed and the complainant shall be so notified.

(2) If an investigation indicates that the contractor has not complied with the requirements of the Act, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor can be found to be in compliance, it must make a specific commitment in accordance with the procedure in 41 CFR 60-1.65.

(3) If a complaint investigation or compliance review indicates a violation of the Act, and the matter has not been resolved by informal means, OFCCP may refer the matter in accordance with the procedure in 41 CFR 60-1.68(a) for consideration of any action authorized under 41 CFR 60-1.68. After a matter arising under the Act is referred to the Office of the Solicitor, the provisions of 41 CFR 60-1.68 through 60-1.70 shall be applicable to the matter in the same way those provisions apply to a matter arising under Executive Order 11246.

Subpart C—Ancillary Matters

§ 60-250.30 Responsibilities of the Assistant Secretary for Veterans' Employment.

(a) In accordance with the provisions of 38 U.S.C. 2002A, the Assistant Secretary for Veterans' Employment (ASVE) has responsibilities in all Department of Labor employment and training programs for veterans. The ASVE is responsible for assuring that the Veterans Employment Service shall monitor and evaluate adherence to the contractor job listing provisions of § 60-250.3 by state employment security agencies. Deficiencies noted by the Veterans Employment Service shall be reported through the ASVE to OFCCP. OFCCP, in coordination with the ASVE, will review contractor compliance with the mandatory job listing requirements in the course of regularly scheduled compliance reviews.

(b) Any job openings listed pursuant to § 60-250.3, which requires contractors to list their job openings with state employment services offices, shall be utilized by state employment security agencies to refer qualified disabled veterans and veterans of the Vietnam era. (See 20 CFR 653.221(a)(7).)

(c) The local offices of the Federal-state employment service shall give priority in referral of disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors pursuant to this part.

(d) The local state employment service staff shall make appropriate job development contacts with identified contractors to obtain orders for job openings. Information so obtained which is pertinent to determining compliance with the requirements to list job openings and to take affirmative action shall be made available to OFCCP.

§ 60-250.31 Recordkeeping.

(a) Each contractor shall maintain for a period not less than one year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this part and shall furnish such information in the form required by the Director or as the Director deems necessary for the administration of the Act.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-250.4(b) constitutes noncompliance with the contractor's obligations under the Act and is a ground for the imposition of appropriate sanctions.

Appendix A

This employer is a Government contractor subject to Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 which require Government contractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. If you are a disabled veteran covered by this program and would like to be considered under the affirmative action program, please tell us. This information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations, and (ii) first aid personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment. In order to assure proper placement of all employees, we do request that you answer the following question: If you have a disability which might affect your performance or create a hazard to yourself or others in connection with the job for which you are applying, please state the following: (1) The skills and procedures you use or intend to use to perform the job notwithstanding the disability and (2) the accommodations we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job or other accommodations.

Appendix B

The following is a set of procedures which contractors may use to meet the requirements of § 60–250.5(b).

(1) The application or personnel form of each known protected veteran should be annotated to identify each vacancy for which he or she was considered, and the form should be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

(2) The personnel or application records of each known protected veteran should include (i) the identification of each promotion for which he or she was considered, and (ii) the identification of each training program for which he or she was considered.

(3) In each case where a protected veteran is rejected for employment, promotion or training, a statement of the reasons should be appended to the personnel file or application form. This statement should include a comparison of the qualifications of the protected veteran and the person(s) selected, as well as a description of the accommodations considered. This statement should be available to the applicant or employee concerned upon request.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation which makes it possible for the contractor to place a protected veteran on the job, the application form or personnel record should contain a description of that accommodation.

PART 60–741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

Sec.
60–741.1 Purpose and application.
60–741.2 Coverage and waivers.
60–741.3 Affirmative action clause.
60–741.4 Applicability of the affirmative action program requirement.
60–741.5 Affirmative action policy, practices and procedures.
60–741.6 Determination of handicap.
60–741.7 Listing of employment openings.

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60–741.20 Subcontracts.
60–741.21 Duties of agencies.
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Subpart C—Ancillary Matters

60–741.30 Recordkeeping.
Appendix A
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Authority: Sec. 503 of the Rehabilitation Act of 1973, (29 U.S.C. 793), as amended by Sec. 111(a), Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706) and by secs. 119 and 122 of the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 and Executive Order 11758.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60–741.1 Purpose and application.

The purpose of the regulations in this Part 60–741 is to assure compliance with section 503 of the Rehabilitation Act of 1973, as amended, which requires Government contractors to take affirmative action to employ and advance in employment qualified handicapped individuals. The regulations in this part apply to all Government contracts, including Federal deposit or share insurance, for the furnishing of supplies or services or for the use of personal property (including construction) in excess of $2,500. Compliance of a contractor with the provisions of this part will not necessarily determine its compliance with the requirements of section 504 of the Rehabilitation Act of 1973 and compliance with section 504 will not necessarily determine compliance with section 503 and the regulations in this part.

§ 60–741.2 Coverage and waivers.

(a) *General.*—(1) *Transactions for $2,500 or less.* Contracts for $2,500 or less are not covered by the Act. No agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) *Contracts for indefinite quantities.* With respect to indefinite delivery-type contracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be $2,500 or less. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order is in excess of $2,500. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside of the United States.* The requirements of the affirmative action clause are waived with respect to contracts with regard to work performed outside of the United States by employees who were not recruited within the United States.

(4) *Contracts with state or local governments.* The requirements of the affirmative action clause in any contract with a state or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

(5) *Facilities not connected with contracts.* The Director may waive the requirements of the affirmative action clause with respect to any of a contractor's facilities which he or she finds to be in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor.

(b) *Waivers.* (1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Director, may waive the application to any contract of any part of or all the affirmative action clause when he or she deems that special circumstances in the

national interest so require. The agency head, with the concurrence of the Director, may also grant such waivers to groups or categories of contracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of section 503 of the Act.

(2) *National security.* Any requirement set forth in the regulations in this Part 60–741 shall not apply to any contract whenever the head of the contracting agency determines that such contract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination the head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any class of contracts under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Director may withdraw the waiver for a specific contract or group of contracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–741.3 Affirmative action clause.

Each agency and each contractor and subcontractor shall include the following affirmative action clause in each of its covered Government contracts (and modifications, renewals, or extensions thereof if not included in the original contract).

Affirmative Action for Handicapped Workers

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The contractor will include the provisions of this clause in every subcontract or purchase order in excess of $2,500 unless exempted by rules, regulations, or orders of the Secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 60–741.4 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract, every Government contractor which has 250 or more employees and has a contract of $1 million or more shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60–741.5 of this part. This program may be integrated into or kept separate from other affirmative action programs of the contractor which OFCCP requires it to maintain pursuant to this chapter. The provisions of 41 CFR 60–2.3(c), pertaining to long term affirmative action programs, shall apply to affirmative action programs required under this Part 60–741.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The contractor shall submit the affirmative action program within 30 days of a request from OFCCP. The contractor shall also submit the affirmative action program upon OFCCP's request when a complaint is being investigated or a preaward compliance review is being conducted.

(d) The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

(e)(1) The contractor shall invite all applicants and employees who believe themselves covered by the Act and who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Act and the regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation. (An acceptable form for such an invitation is set forth in Appendix B attached.)

(2) Nothing in this section shall preclude an employee from informing a contractor at any future time of his or her desire to benefit under the program.

(3) Nothing in this section shall relieve a contractor of its obligation to take affirmative action with respect to those applicants or employees of whose handicap the contractor has actual knowledge: *Provided,* That the contractor is not obligated to search the medical files of any applicant or employee to determine the existence of a handicap.

(4) Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

§ 60–741.5 Affirmative action policy, practices, and procedures.

(a) *General requirements.* Under the affirmative action obligation imposed by section 503 of the Rehabilitation Act of 1973, as amended, contractors are required to take affirmative action to employ and advance in employment qualified handicapped individuals at all levels of employment, including the executive level. Such action shall apply to all employment practices, including, but not limited to, the following: Hiring, upgrading, demotion or transfer,

recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) *Proper consideration of qualifications.* Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known handicapped applicants and employees for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the Government. (Appendix C attached is an example of an appropriate set of procedures. The procedures in Appendix C are not required and contractors may develop other procedures which are appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to ensure that, to the extent qualification requirements tend to screen out qualified handicapped individuals, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification requirements tend to screen out qualified handicapped individuals, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals and regarding accommodations; and

(ii) First aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be informed.

(d) *Accommodation to physical and mental limitations of employees.* A contractor must make a reasonable accommodation to the physical and mental limitations of an employee or applicant unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) Business necessity and (2) financial cost and expenses.

(e) *Compensation.* In offering employment or promotions to handicapped individuals, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(f) *Outreach, positive recruitment, and external dissemination of policy.* Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified handicapped individuals. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should develop internal communication of its obligation to engage in affirmative action efforts to employ qualified handicapped individuals in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) The contractor should develop reasonable internal procedures to ensure that its obligation to engage in affirmative action to employ and promote qualified handicapped individuals is being fully implemented.

(3) The contractor should periodically inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified handicapped individuals.

(4) The contractor should enlist the assistance and support of recruiting sources (including state employment security agencies, state vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, state education agencies, labor organizations and organizations of or for handicapped individuals) for the contractor's commitment to provide meaningful employment opportunities to qualified handicapped individuals. (A list of numerous national organizations serving the handicapped, many of which have state or local affiliates, is found in the "Directory of Organizations Interested in the Handicapped" published by the Committee for the Handicapped People-to-People Program, Washington, D.C.)

(5) The contractor should engage in recruitment activities at educational institutions which participate in training of the handicapped, such as schools for the blind, deaf, or retarded.

(6) The contractor should establish meaningful contacts with appropriate social service agencies, organizations of and for handicapped individuals, vocational rehabilitation agencies or facilities, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources described in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(7) The contractor should review employment records to determine the availability of promotable and transferable qualified known handicapped individuals presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(8) The contractor should include handicapped workers when employees

are pictured in consumer, promotional or help wanted advertising.

(9) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(10) The contractor should take positive steps to attract qualified handicapped persons not currently in the work force who have requisite skills and can be recruited through affirmative action measures. These persons may be located through the local chapters of organizations of and for handicapped individuals described in paragraph (f)(4) of this section.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees, who may have had limited contact with handicapped persons in the past. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor should adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of handicapped workers in company publications.

(9) Post the policy on company bulletin boards, including a statement that employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the Act.

(10) When employees are featured in employee handbooks or similar publications for employees, include handicapped employees.

(h) *Responsibility for implementation.* An executive of the contractor should be designated as director or manager of company affirmative action activities under these regulations. His or her identity should appear on all internal and external communications regarding the company's affirmative action programs. This executive should be given necessary top management support and staff to manage the implementation of this program, including the following activities:

(1) Develop policy statements, affirmative action programs, and internal and external communication techniques. The latter techniques should include regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed. In addition, supervisors should be advised that:

(i) Their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(ii) The contractor is obligated to prevent harassment of employees placed through affirmative action efforts, as set forth in 41 CFR 60–1.67.

(2) Identify problem areas in conjunction with line management and known handicapped employees, in the implementation of the affirmative action programs, and develop solutions. This is particularly important for the accommodations requirements.

(3) Design and implement audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(iv) Determine whether known handicapped employees have had the opportunity to participate in all company sponsored educational, training, recreational and social activities.

(v) Ensure that each location is in compliance with the Act and the regulations in this part.

(4) Serve as liaison between the contractor and OFCCP.

(5) Serve as liaison between the contractor and organizations of and for handicapped persons, and arrange for the active involvement by company representatives in the community service programs of local organizations of and for the handicapped.

(6) Keep management informed of the latest developments in the entire affirmative action area.

(7) Arrange for career counseling for known handicapped employees.

(i) *Development and execution of affirmative action programs.* (1) Job qualification requirements reviewed pursuant to paragraph (c) of this section should be made available to all members of management involved in the recruitment, screening, selection, and promotion process.

(2) The contractor should evaluate the total selection process including training and promotion to ensure freedom from stereotyping handicapped persons in a manner which limits their access to all jobs for which they are qualified.

(3) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to ensure that the commitments in the contractor's affirmative action program are implemented.

(4) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position, descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(5) A special effort should be made to include qualified handicapped persons on the personnel relations staff.

(6) Handicapped employees should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(7) Recruiting efforts at all schools should incorporate special efforts to reach handicapped students.

(8) An effort should be made to participate in work-study programs with rehabilitation facilities and schools which specialize in training or educating handicapped individuals.

(9) The contractor should use all available resources to continue or establish on-the-job training programs.

(j) *Sheltered workshops.* Contracts with sheltered workshops do not constitute affirmative action in lieu of employment and advancement of qualified handicapped individuals in the contractor's own workforce. Contracts with sheltered workshops may be included within an affirmative action program if the sheltered workshop trains employees for the contractor and the contractor is obligated to hire trainees at full compensation when such trainees become qualified as "qualified

handicapped individuals" as defined in this chapter.

§ 60-741.6 Determination of handicap.

(a) Any handicapped individual filing a complaint with the Director under this part shall submit with his or her complaint a signed statement specifying the handicapping impairment or situation (see 41 CFR 60-1.3 definition of "handicapped individual"). If the Director determines that further documentation is necessary, he or she may require the complainant to provide additional information.

(b) Any contractor requiring a determination of an applicant's or employee's handicap may require the applicant or employee to provide medical documentation of the impairment or, in the alternative, may require the applicant or employee to undergo a medical examination at the contractor's expense.

(c) Any determination of handicap required pursuant to paragraph (b) of this section must meet the requirements of § 60-741.5(c) and must be for the purpose of affirmative action and proper job placement. Information obtained therefrom shall not be used to exclude or otherwise limit the employment opportunities of qualified handicapped individuals.

(d) All medical documentation required under this section shall be based upon the American Medical Association Guides to the Evaluation of Permanent Impairment, provided that the Guides shall be used only to determine the existence of impairment without regard to the degree of impairment. The American Medical Association Guides to the Evaluation of Permanent Impairment are hereby incorporated by reference. Copies of the AMA Guides are available for $5.00 from the American Medical Association, 535 North Dearborn Street, Chicago, Illinois 60610. The AMA Guides rate the percentage of disability of the whole person as a result of specific permanent impairments. Impairments and disabilities listed in the AMA Guides are recognized by OFCCP as handicapping conditions.

§ 60-741.7 Listing of employment openings.

Contractors should request state employment security agencies to refer qualified handicapped individuals for consideration under their affirmative action programs.

Subpart B—General Enforcement and Complaint Procedure

§ 60-741.20 Subcontracts.

Each nonexempt contractor shall include the affirmative action clause prescribed in § 60-741.3 in each of its nonexempt subcontracts. The clause may be incorporated by reference in accordance with 41 CFR 60-1.46.

§ 60-741.21 Duties of agencies.

(a) Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such cooperation shall include the responsibility to ensure that contractors are fully cognizant of their obligations under the Act and this part, to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this part, and to take such actions for noncompliance as set forth in this chapter as may be ordered by the Director.

§ 60-741.22 Evaluations by the OFCCP Assistant Regional Administrator.

The Assistant Regional Administrators, OFCCP, shall be primarily responsible for undertaking such investigations of complaints against contractors and conducting compliance reviews as may be necessary to assure that the purposes of the Act are being carried out effectively.

§ 60-741.23 Complaint procedures.

(a) *Filing complaints.* Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended for good cause shown.

(b) *Where to file.* Complaints may be filed with the OFCCP, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or with any OFCCP regional or area office.

(c) *Contents of complaints.* Complaints must be signed by the complainant or an authorized representative and must contain the following information: (1) Name and address (including telephone number) of the complainant; (2) name and address of the contractor who committed the alleged violation; (3) a description of the act or acts considered to be a violation; (4) a statement that the alleged discriminatee is handicapped, has a history of a handicap, has documentation of impairment, or was regarded by the contractor as having an impairment; and (5) any other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met. Signed third party complaints which do not identify the alleged discriminatee will be accepted, whether or not the third party signing the complaint is an authorized representative provided that the other information required by this paragraph is included.

(d) *Incomplete information.* If a complaint contains incomplete information, OFCCP shall seek the needed information from the person who filed the complaint. If the information is not furnished within 60 days of the date of the request, the file may be closed.

(e) *Investigations.* The OFCCP shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record.

(f) *Referral to contractor.* When a complaint concerns an employee of a contractor and the contractor has an applicable internal review procedure, the complaint may be referred to the contractor for processing under that procedure if the employee gives his/her consent. The contractor shall be informed of the elements of the complaint either by being furnished a copy or a sanitized version. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If the contractor is able to resolve the complaint to the satisfaction of the employee prior to the OFCCP investigation, the contractor shall notify OFCCP of the results in writing within 60 days of the referral. The case will be closed upon verification with the employee.

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations in this part, or if the matter is not referred to the Office of the Solicitor for consideration of legal enforcement proceedings, the matter shall be closed and the complainant shall be so notified.

(2) If an investigation indicates that the contractor has not complied with the requirements of the Act, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor can be found to be in compliance, it must make a specific commitment in accordance with the procedure in 41 CFR 60-1.65.

(3) When a complaint investigation or compliance review indicates a violation of the Act, and the matter has not been resolved by informal means, OFCCP may refer the matter in accordance with the procedure in 41 CFR 60-1.68(a) for

consideration of any action authorized under 41 CFR 60–1.68. After a matter arising under the Act is referred to the Office of the Solicitor, the provisions of 41 CFR 60–1.68 through 60–1.70 shall be applicable to the matter in the same way those provisions apply to a matter arising under Executive Order 11246.

Subpart C—Ancillary Matters

§ 60–741.30 Recordkeeping.

(a) Each contractor shall maintain for a period not less than one year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this part and shall furnish such information in the form required by the Director or as the Director deems necessary for the administration of the Act.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60–741.4(b) constitutes noncompliance with the contractor's obligations under the Act and is a ground for the imposition of appropriate sanctions.

Appendix A—Guidelines on the Application of the Definition "Handicapped Individual."

The Rehabilitation Act of 1973, as amended, defines a handicapped individual for the purposes of the program as any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment.

"Life activities" may be considered to include communication, ambulation, selfcare, socialization, education, vocational training, employment, transportation, adapting to housing, etc. For the purpose of section 503 of the Act, primary attention is given to those life activities that affect employability.

The phrase *"substantially limits"* means the degree that the impairment affects employability. A handicapped individual who is likely to experience difficulty in securing retaining or advancing in employment would be considered substantially limited.

"Has a record of such an impairment" means that an individual may be completely recovered from a previous physical or mental impairment. It is included because the attitude of employers, supervisors, and coworkers toward that previous impairment may result in an individual experiencing difficulty in securing, retaining, or advancing in employment. The mentally restored and those who, for example, have had heart attacks or cancer often experience such difficulty. Also, this part of the definition would include individuals who may have been erroneously classified and may experience discrimination based on this misclassification. This group may include persons such as those who have been misclassified as mentally retarded or mentally restored.

"Is regarded as having such an impairment" refers to those individuals who are perceived as having a handicap, whether an impairment exists or not, but who, because of attitudes or for any other reason, are regarded as handicapped by employers or supervisors who have an effect on the individual securing, retaining or advancing in employment.

Appendix B

1. This employer is a Government contractor subject to section 503 of the Rehabilitation Act of 1973, which requires Government contractors to take affirmative action to employ and advance in employment qualified handicapped individuals. If you have such a handicap and would like to be considered under the affirmative action program, please tell us. Submission of this information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals, and regarding necessary accommodations, (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment, and (iii) Government officials investigating compliance with the Act shall be informed.

2. If you are handicapped, we would like to include you under the affirmative action program. It would assist us if you tell us about (1) any special methods, skills and procedures which qualify you for positions that you might not otherwise be able to do because of your handicap, so that you will be considered for any positions of that kind, and (2) the accommodations which we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, or other accommodations.

Appendix C

The following is a set of procedures which contractors may use to meet the requirement of § 60–741.5(b).

(1) The application or personnel form of each known handicapped applicant should be annotated to identify each vacancy for which the applicant was considered, and the form should be quickly retrievable for review by the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

(2) The personnel or application records of each known handicapped employee should include (i) the identification of each promotion for which the handicapped employee was considered, and (ii) the identification of each training program for which the handicapped employee was considered.

(3) In each case where a handicapped employee or applicant is rejected for employment, promotion or training, a statement of the reason should be appended to the personnel file or application form. This statement should include a comparison of the qualifications of the handicapped applicant or employee and the person(s) selected, as well as a description of the accommodations considered. This statement should be available to the applicant or employee concerned upon request.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation which makes it possible for the contractor to place a handicapped individual on the job, the application form or personnel record should contain a description of that accommodation.

CHAPTERS 60–60 THROUGH 60–100 [RESERVED.]

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Part III

Department of Agriculture

Food and Nutrition Service

1980 Food Stamp Amendments; Eligibility Limits—Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, and 273

[Amendment No. 174]

1980 Food Stamp Amendments; Eligibility Limits; Final Rule

AGENCY: Food and Nutrition Service, USDA.
ACTION: Final rule.

SUMMARY: This final rule implements several provisions of the 1980 Amendments to the Food Stamp Act of 1977, as amended. The rulemaking changes several provisions of the interim final rules on eligibility limits issued by the Department in the July 8, 1980, **Federal Register**. This rule's effect will be to establish final regulations that restrict student eligibility for the Food Stamp Program, reduce the resource limit to $1,500, exclude from resources a vehicle necessary for the transportation of a physically disabled household member, and exclude from income Federal, State and local energy assistance payments.

EFFECTIVE DATE: These rules are effective September 24, 1981, and are to be implemented in accordance with the provisions of § 272.1(g)(16).

FOR FURTHER INFORMATION CONTACT: Susan McAndrew, Chief, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202–447–6535. The final impact statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in relation to the requirements of Executive Order 12291, and it has been determined that the action is not a major rule as defined by that Order. It will not result in an annual effect on the economy of $100 million or more. The rule modifies policies regarding student eligibility, defines "institution of higher education," and defines "necessary for the transportation of a physically disabled household member." These revised provisions will not have a significant effect on the economy, yet they will facilitate administration of the program. The rule is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will not result in any new, significant administrative costs for the State and local agencies that administer the program. Because the rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final action has been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Public Law 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that this action does not have a significant economic impact on a substantial number of small entities. The action will modify several policies followed by State and local agencies in their administration of the Food Stamp Program. Requirements are not placed on small businesses or small organizations. The requirements placed on State and local governments do not have a significant impact.

Introduction

On July 8, 1980, the Department published interim final regulations (45 FR 46036) to implement certain provisions of the 1980 Amendments (Pub. L. 96–249) to the Food Stamp Act of 1977. These regulations restricted the eligibility of students, reduced the resource limit to $1,500, allowed for the exclusion from resources of a vehicle necessary to transport a physically disabled household member, clarified the rules concerning unlicensed vehicles on Indian reservations, and allowed for the exclusion from income and resources of energy assistance payments.

Although the July 8 rulemaking had the effect of final regulations, the Department encouraged interested parties to submit comments by September 8, 1980. Subsequently, 35 letters were received which addressed various provisions of these rules. The majority of the comments (30 letters) concerned the student restrictions but each section of the interim final rules prompted comments.

After carefully reviewing the comments received, the Department has made several changes in the regulations. This preamble addresses those changes as well as other major issues raised by the comments. A full understanding of the basis and purpose of the provisions not addressed here may require reference to the July 8, 1980, **Federal Register** publication.

Students

The student provisions received many more comments than the others in this rulemaking. Thirteen State agencies, four Regional offices, six public interest groups, five local agencies, one other government agency and one person from the general public submitted comments. Almost all of the comments indicated a need to clarify the student regulations, with State and local agencies requesting further guidance or additional definitions.

Several commentors asked for changes in the regulations that the law itself would not allow. For example, two administering agencies stated their opinion that the student eligibility criteria should be expanded to include children in needy households. Four other commentors objected to the restriction of students altogether. The specificity in the language of the 1980 Amendments so clearly defines student eligibility that expansion of the criteria by the Department is impossible. However, most of the comments addressed issues over which the Department has some control and, consequently, several changes have been made in the regulations.

One of the changes made is in the definition of "an institution of higher education." Section 6(d)(2)(D) of the Food Stamp Act of 1977, as amended by Public Law 96–249, provides an exemption from work registration for "* * * bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education * * *." Paragraph (e) of Section 6, however, provides that those persons enrolled at least half time in institutions of higher education shall be ineligible to participate at all in the Food Stamp Program unless they work a minimum of 20 hours per week, or participate in a work/study program, or are heads of households (or spouses of such heads), or are enrolled through the work incentive (WIN) program. Because those students enrolled in other schools or training programs need not meet these additional requirements to be eligible for program participation, it is important that the definition of "an institution of higher education" be as clear as possible in the Federal regulations.

As previously defined in § 271.2, an institution of higher education meant "any institution providing post-high school education including but not limited to, colleges, universities, and vocational-technical schools at the post-high school level." Several comments cited problems in the implementation of

this definition, because the rule did not make clear what constitutes "post-high school level."

Prior attempts by Congress to restrict student participation indicate that it was concerned that those who chose to attend school as a way out of poverty not be deemed ineligible to participate. Thus, in considering the 1968 amendments to the 1964 Food Stamp Act, the House Committee on Agriculture proposed an amendment that would have denied participation to any student attending an institution of higher learning unless "* * * any such person was eligible for and was receiving food stamp assistance * * * prior to being enrolled as a student at an institution of higher learning * * *." (See p. 101 of the House Committee Report accompanying Public Law 95-113 (Report No. 95-464 published on June 24, 1977).) Although this amendment was deleted by the House Senate Conference Committee before passage of the final bill, subsequent amendments to the Act contained provisions aimed at eliminating students who were supported by a taxpayer who is a member of another household which is not eligible for food stamps (Public Law 91-671). (Reference to a study on student participation conducted by the General Accounting Office at the request of Congress does not help to characterize "institution of higher education" because the study focused only on universities and did not include vocational/technical or trade schools.) The language in current legislation indicates that Congress intended a distinction between institutions of higher education and other types of schools or training programs.

In light of the comments the Department considered two options. They were (1) retain the current definition, and (2) revise the definition to exclude trade and some vocational/technical schools.

The first option would exclude from food stamp participation students over 18 in any school that is not specifically part of a high school system. This would include those trade and vocational-technical schools that require no high school diploma or equivalent. Program administrators currently use this definition when determining whether a student is eligible to receive food stamps. The result of the current definition is that some students are being denied food stamp benefits even though they are in schools which are not commonly considered institutions of higher education.

The second option would only restrict the participation of students who are attending colleges, universities and vocational/technical schools which normally require high school graduation or an equivalency certificate to enroll. This definition is consistent with the Department of Education's definition of institution of higher education. This definition would allow students of trade schools, such as auto mechanics or beauticians, to participate in the food stamp program while they are obtaining practical skills that would enable them to obtain better jobs.

There is no data available to ascertain the number of students who attend trade schools or non-college vocational-technical schools rather than colleges and universities. However, general knowledge of these schools indicates that trade and vocational-technical courses are usually of shorter duration than most college courses of study which require two to four years of full-time status to obtain a degree. Exempting these students would be within Congressional intent to eliminate only those whose financial status would not qualify them for food stamps if they had not chosen to go to college. Additionally, such a definition would enable States to more easily determine which schools are institutions of higher education. Therefore, the Department has decided to redefine institution of higher education so that it is limited to those institutions which normally require a high school diploma or equivalency certificate for a student to enroll.

Some institutions, while normally requiring a high school diploma or equivalent, make exceptions for certain students who the institution feels can benefit from the program offered even though the student has not graduated from high school. Students attending these institutions under the special circumstances are still to be considered enrolled in institutions of higher education.

Taking trade school students out of the universe of ineligible students raises the question of whether work registration requirements should be imposed when school is not in session. Since the 1980 Amendments deleted the requirement that students register for full-time work during periods of recess in excess of thirty days, the Department has determined that imposing this requirement solely on trade school students would be inequitable and, moreover, not within Congressional intent.

One commentor pointed out an apparent discrepancy in § 273.5(a) between the two references to the applicable ages of students. The first reference is to "any person who is between the ages of 18 and 60 * * *". The second states that the rules "do not apply to persons * * * over 60". The Department has changed the second age reference to make it consistent with the first.

The interim final regulations allow an exemption from the student restriction for students who work twenty hours per week. Six comments were received on this provision requesting that the regulation be changed to permit a minimum wage criterion in addition to the minimum hours criterion. A Regional office, a State agency and three local agencies pointed out two problems in strict adherence to the 20 hour criterion for those students who are self-employed. One problem is determining the number of hours actually worked by a self-employed student. The second concern was with students who are working twenty hours per week at such things as pottery, selling flowers, designing jewelry, etc., but are receiving little or no income. These commentors stress their belief that Congressional intent was that such employment be gainful in order for a student to qualify for food stamps. In addition, a public interest group requested that this work exemption be extended to anyone employed 20 hours or earning at least the equivalent of 20 times the minimum wage. In light of these comments, the Department considered four options.

The first option was to retain the current language that requires an actual 20 hours of work with no minimum wage criterion. This option has apparently been causing some administrative difficulties. In addition, some students are qualifying for food stamps because they do work 20 hours per week, but are receiving little or no income. The Department believes that this situation does not meet Congressional intent.

The second option considered was imposing a minimum wage criterion for self-employed students. This option would require all students to work 20 hours per week and would impose an additional income requirement (20 times minimum wage) for self-employed students. This option would ensure that students qualifying under this exemption would be engaged in gainful employment. The problem of determining the number of hours actually worked by self-employed students would be minimized by the imposition of the wage criteria. Self-employed students could possibly claim that the wage requirement is unfair since the same requirement is not placed on other students. The Department believes, however, that Congress intended that only those students who are attempting to support themselves

should be allowed to participate in the Food Stamp Program.

The Department considered a third option which would require that all students work 20 hours per week and earn at least the minimum wage. Because the number of work hours is easily verifiable for students employed by others, however, the Department has determined that the imposition of a minimum wage criterion is unwarranted in these cases, particularly since it is not mandated by law. Self-employed students on the other hand cannot provide the same verification and an additional minimum wage criterion is justified in light of Congressional intent that students make realistic attempts to support themselves.

The fourth option, as suggested by the public interest group, was to allow an exemption for students who either work an actual 20 hours per week, *or* earn the equivalent of the minimum hourly wage times 20 hours. Congressman Foley, when introducing this amendment, specifically addressed this issue. He stated that he had not incorporated a work exemption for "* * * those working fewer than 20 hours, but earning enough in briefer periods to make the equivalent of 20 hours of minimum wage pay." His reason for this was that this exemption "* * * has been abused by students working 4 to 5 hours in specialized activities at $10 to $12 an hour and then refusing to work anymore, citing food stamp work rules as the excuse." (H3410 Congressional Record; May 8, 1980.) This option was therefore rejected.

The Department determined that the current rules may allow self-employed students to qualify for food stamps without making a reasonable attempt to support themselves to the extent possible. Since option one does not comply with Congressional intent, options two and three, therefore, held possible solutions to rectifying the situation. Option two was chosen because it complies with Congressional intent more closely than the other options considered. The final regulations require that self-employed students work 20 hours per week and earn at least the equivalent of 20 times the hourly Federal minimum wage.

The exemption allowed for students who are participating in Federally financed work-study programs prompted several requests for clarification of what constitutes an acceptable work-study situation. To qualify under this exemption a student must actually be working at a job for which the student receives earnings or tuition credit for the work performed. This exemption does not apply to students who are working in hospitals or student teachers who must obtain actual teaching experience as part of their course work for which they earn credit.

Most work-study programs are funded through Title IV, Part C, of the Higher Education Act of 1965, as amended. Some schools participate in State-financed work-study programs as well as the Federal program but commingle the funds. Such programs, as long as there is some Federal funding involved, meet the definition of Federally-financed work-study programs. Participating institutions are required to maintain listings of which students benefit from Title IV–C work-study funds and maintain separate payroll records for those students employed on-campus.

One commentor asked whether students who are paid to attend institutions of higher education with Federal CETA funds are to be considered work-study students. The students in this program receive compensation based on the number of hours of class attendance and not for any work performed. Therefore, they are not entitled to the work-study exemption. (Pursuant to Section 6(d)(2)(D) of the 1977 Food Stamp Act, however, CETA students may be exempt from the work registration requirements if they are enrolled in "training programs.") Another commentor asked whether cooperative education (co-op) students, those who, under normal co-op situations, are full-time students during one semester and work full-time at curriculum-related jobs during the next semester, should be considered work-study students. These co-op students would not be entitled to the work-study exemption. First of all, co-op participants would not be classified as students during their work period unless, of course, they are also attending school at least half time. This is because enrollment is only deemed to continue if the student intends to register for the next normal school term. Secondly, they would not be working at the co-op jobs during the school attendance phase of their alternate school/work cycle. It is possible that during the school phase these students obtain work-study jobs or work 20 hours per week, in which case they would qualify as eligible students. They would not qualify, however, solely on the basis of their participation in the co-op program.

Four commentors felt that the Department should require that work-study students work a minimum number of hours per week in order to qualify under this exemption. The Department believes, however, that if Congress had intended such a requirement it would have been specified in the legislation. Furthermore, nothing in the legislative history indicates that it was the intention of Congress that such students must work a given number of hours. The Department has retained the original language in these regulations.

Clarification was also requested from a Regional office on whether the exemption for work-study students continues through vacations and recesses. The language in Pub. L. 96–249 and in these regulations is that a student qualifies if she/he participates "* * * in a Federally financed work-study program *during the regular school year.*" (Emphasis added.) This language indicates that the exemption is intended to qualify a student through authorized breaks and summer vacations when, in most cases, the work-study jobs are not available. Furthermore, the Department believes that most students who are participating in work-study programs are doing so because they need the additional income and that, therefore, they will attempt to find an alternate source of income during such school breaks and vacations. The regulatory language concerning the work-study exemption remains unchanged.

The 1980 Amendments provide another exception to the student restrictions for a student who is "the head of a household (or spouse of such head) containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, * * *" See Section 6(e)(3)(B) of the 1977 Food Stamp Act, as amended. The language used in this amendment and in the regulations caused some confusion among several administering agencies because 1) the term "head of household" is used in a different sense than food stamp head of household and 2) it is subject to two interpretations concerning the eligibility of a student spouse.

The first interpretation is based on a strict technical reading of the amendment and regulations, emphasizing the use of the parenthesis in the text. The interpretation suggests that to be an eligible student, a spouse must be the spouse of a *student* head of household. In other words, in order for a student spouse to be eligible, a determination must first be made as to whether the head of the household is an eligible student by virtue of providing more than half the support of a dependent. Then, if the student head of household is eligible, the student spouse of such head is also eligible. This

interpretation appears inequitable since it would allow an exclusion for student spouses only if they are married to students who support other household members and not for student spouses who are married to non-student heads of household.

The second interpretation is that, in order to be eligible, a student may be the head of a household providing more than half the support of dependents, or the spouse of the head of a household, whether or not the household head is also a student. In other words, a student may qualify for food stamps by virtue of being the spouse of the household head. This interpretation would eliminate the inequity of the first interpretation. Furthermore, the Department has determined that the second interpretation follows the intent of the legislation. There is no indication in legislative history that Congress felt that two students married to each other are more deserving of food stamp benefits than a married couple that includes only one student. The Department has decided to revise the regulations to more clearly state the intent outlined in the second interpretation.

In addition, the Department has eliminated the reference to "head of household" since the term as used in the legislation means head of household by virtue of being the "breadwinner". It does not coincide with the Food Stamp Program "head of household" as defined in § 273.1(d)

Four administering agencies requested clarification of the term enrollment and the continuation of student status through breaks. One State agency pointed out that enrollment in an institution of higher education could possibly occur during the student's senior year in high school, making the student ineligible for food stamps during the summer before college attendance actually begins. Such students, particularly those who do not live near their college, may not have been able to secure the part-time jobs or work-study positions that would enable them to receive food stamps. The Department has determined, therefore, that enrollment status shall begin with the first day of the school term at an institution of higher education and shall end when the student graduates, is suspended or expelled, drops out, or decides not to register for the next normal school term (excluding summer school). The determination of enrollment status during vacations and recesses shall be based on the student's status just prior to the school break. The same is true for the work-study exemption. If the student was participating in work-study just prior to the vacation or recess, the exemption continues through the school break.

Although the preamble of the interim final rules specifically requested comments concerning continuation of student status during breaks and vacations, only three comments were received which addressed this point. A State agency and a public interest group expressed support, and one public interest group opposed the policy. Since response was minimal, the Department has decided to maintain the policy of student status continuing through breaks and vacations.

The section of the student regulations dealing with the evaluation of the support of dependents received many comments which indicated a need for further clarification. One item of concern was the source of the income used to provide more than half the support of dependent household members. Two Regional offices, one State agency and two public interest groups raised questions about whether the source of the income may be contributions to the household head from persons outside the household, withdrawals from resources, or need-based scholarships, grants or loans, or whether the household head had to actually earn the income to provide the support in order to qualify under this exemption. The focus in these cases should be on whether the household head has dependents to whom she/he provides half of their support and not necessarily on where she/he obtained the necessary funds.

To this end, the regulations have been changed to simplify the procedure for determining if an individual is a dependent of a student or spouse for the purpose of determining if the student or spouse is eligible. First, certain broad categories of individuals have been classified as dependents and may automatically be assumed to be receiving half or more of their support from the student or spouse, regardless of the source of the support income. They include spouses and minor children under the control of the student or spouse, and relatives of the student or spouse who have little or no income of their own. This would include a household where the primary income source is money being provided to one of these types of dependents from a need-based Federal, State or local assistance payment, for example, a household whose primary source of income is an AFDC payment on behalf of a dependent child. Therefore the specific language explaining how such income (e.g., AFDC money) should be regarded is no longer necessary.

In the case of other dependents, a case-by-case determination as to whether or not the student or spouse is providing half or more of the support is necessary. Again, the source of the support income has no bearing on the determination. The definition of "total support" is retained for purposes of determining the status of these other dependents. In these cases reference to the Internal Revenue Service (IRS) code may be helpful in determining the dependents' status. However, use of the IRS code will no longer be required, as explained below.

Two Regional offices, four State agencies and a public interest group all commented that requiring State agencies to refer to sections 151 and 152 of the Internal Revenue Code to evaluate circumstances not covered by these regulations creates an undue burden. These commentors believe that the IRS rules are too complex to expect eligibility workers to interpret and apply to student households. The Department has determined that the general principles outlined in these regulations will normally be sufficient for the evaluation of support. These regulations are consistent with the general focus of the IRS principles. Reference of IRS rules would add little additional useful information, therefore, requirement for reference to the IRS code has been deleted from the regulations.

The regulations further require that State agencies determine the support provided by the household head for the calendar year. Three administering agencies commented that the calendar year concept is difficult to administer since all other data is based on the certification period. The term calender year was used in the student regulations primarily due to the IRS definition of support. The Department has determined that the evaluation of support for the calendar year is unnecessary for the purpose of student requirements and has revised the regulations accordingly. State agencies must now determine whether the student head of household or the spouse of the student provides more than half the support of one or more dependents during the certification period.

Two State agencies and a Regional office questioned the classification of ineligible students as non-household members rather than disqualified individuals for purposes of handling their income and resources. The State agencies felt that a student's income and resources should be considered in determining the eligibility and benefit

level of the food stamp household. The Department feels, however, that students who do not meet one of the eligibility criteria of Pub. L. 96-249 do not fall into the same class as a person who has unlawfully entered the country or who has refused to provide his or her social security number. The regulations with regard to an ineligible student's income and resources therefore remain unchanged.

Four agencies requested further guidance on verification requirements and one State agency requested that changes in student status or changes in circumstances that affect student eligibility be considered reportable changes. The Department feels that other sections of the regulations, verification requirements and change reporting requirements, adequately address these concerns. While the section on reportable changes does not cover every aspect of the student eligibility criteria, it covers most of them. A change in the number of hours of work per week would be reflected by a change in income and a change in household composition would reflect the loss of dependent household members. To require additional change report requirements for student status would not significantly reduce program costs to justify the additional administrative burden. Therefore, the Department has decided not to impose additional requirements in this regard. A reference to the student work registration requirements which had been previously overlooked was deleted from § 273.9(b)(3).

Resource Limit

The section of the July 8, 1980 rulemaking which reduced the resource limit to $1,500 received only four comments. All the comments centered on issues that are mandated by the law and over which the Department has no discretion. Two comments from public interest groups objected to the reduction. Two others, a State agency and a public interest group, suggested allowing for adjustments in the resource limit depending on household size and circumstances. No changes were made in this section.

Vehicles for the Physically Disabled

The Department received nine comments on the provisions related to the exclusion of the value of a vehicle necessary for the transportation of a disabled household member as a household resource. Commenters requested clarification in two major areas. Most importantly, commenters wanted the rule to clarify when a vehicle is considered "necessary for the transportation of a disabled household member" and, therefore, when the entire value of the vehicle is eligible for the exemption. The Western Regional office suggested that the Department state that a vehicle is necessary for transportation if it has been purchased for the specific purpose of transporting a disabled household member. This definition, however, would be difficult to implement because there is no effective way for an eligibility worker to determine a household's actual reason for purchasing a vehicle. Instead, the final rule provides that a vehicle is necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. This definition, for example, would exclude the total value of a vehicle that has all controls mounted on the steering column, if there is a disabled individual in the household who needs the special controls. The definition would also exclude, as discussed on p. 131 of the House Committee Report accompanying Public Law 96-249 (Report No. 96-788 published on February 27, 1980), the value of a van that is needed to transport a paraplegic who is a member of a household. The vehicle may be specially equipped or a special type to qualify for the exclusion as a resource. An eligibility worker should exercise discretion in determining, in accordance with the definition, whether the vehicle is necessary for the transportation of the disabled household member.

Commenters also asked for clarification of the definition of disability. One State agency suggested that for the purpose of this exclusion the Department define as disabled a household member who receives Supplemental Security Income (SSI) or Social Security disability payments or other Federal payments for full disability. A Regional office suggested that the definition be limited to persons who have a disability that restricts physical mobility. The Department believes that the new definition of "necessary for transportation" will relieve some of the concerns about the types of disabilities that will qualify an individual for a vehicle exemption. Moreover, the regulations allow for verification, under § 273.2(f)(2), of the disability, if the disability is not evident to the State agency. Appropriate verification may consist of the household member's receipt of temporary or permanent disability benefits issued by governmental and private sources or of a statement from a physician.

The regulations also clarify that a vehicle does not have to be driven by the disabled household member to be eligible for the exemption. This clarification was in response to a comment from a public interest group that the phrase, "A vehicle * * * need not * * * be used primarily by the physically disabled household member," in § 273.8(h)(1)(vi), casts some uncertainty as to whether the value of a vehicle used by the other members of a household to transport the disabled household member is excludable. The final rule states that, "A vehicle * * * need not * * * be used primarily by or for the transportation of the physically disabled household member."

One State agency requested that the regulations impose a limit on the number of vehicles per household that can be excluded under this provision. The imposition of any limit would be arbitrary at best and could result in the denial of benefits to households that legitimately need a number of vehicles for the transportation of disabled household members that is in excess of any limit imposed. The Department also believes that it is unrealistic to assume that there are many households that would claim that there are more disabled household members than any fair number limit the Department could impose.

Energy Assistance

The Department received five comments on the energy assistance disregard. Three of the comments dealt with the difficulty of determining which payments or parts of payments are energy related if it is not specified in the legislation.

As is stated in the regulations, the "* * * payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds." See § 273.9(c)(10)(v). If it is not clear in the legislation or in the legislative history that such payments are energy-related, then no disregard needs to be given. The Department feels that to further define the payments allowed a disregard would not be consistent with Congressional intent.

A State agency again raised the issue of the apparent inequity between allowing a shelter deduction for bills paid with direct energy assistance payments and not allowing a deduction for those that are paid with vendor payments. The Department is currently maintaining its position that vendor-paid utility costs do not result in a real

obligation to the household. Those households who receive the payments directly have some discretion over the use of the funds. The utility bill they receive represents an obligation not realized by those whose benefits are given directly to the energy supplier. In effect, those households have not been billed for the energy costs covered by the vendor payments. Therefore, no changes were made to this section.

Additional Change

The July 8, 1980, interim final rulemaking revised § 273.7(b)(9) which exempts students from the work registration requirements. One important part of the new exemption was the proviso "that students enrolled at least half time in an institution of higher education have met the eligibility conditions in § 273.5." (See 45 FR 46040.) Section 273.7(b)(9) was revised and renumbered in the final rulemaking on work registration and job search published on January 16, 1981, at 46 FR 4628. The Department inadvertently failed to include in this revised provision (renumbered § 273.7(b)(1)(ix)) the proviso related to the student eligibility determination. Therefore, § 273.7(b)(1)(ix) is being revised to bring the section back into conformance with the student eligibility determination in § 273.5.

Accordingly, Parts 271, 272, and 273 of the regulations are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.2, the definition of "Institution of Higher Education" is revised to read as follows:

§ 271.2 Definitions.

* * * * *

"Institution of higher education" means any institution which normally requires a high school diploma or equivalency certificate for enrollment, including, but not limited to, colleges, universities and vocational or technical schools at the post-high school level.

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (g)(16) is revised to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(16) Amendment *174*. State agencies shall implement the program changes required by Amendment *174* as follows:

(i) State agencies shall implement the income/resource disregard provision for Federal, State, and local energy assistance payments (§§ 273.8 and 273.9 of this subchapter) no later than October 1, 1981.

(ii) State agencies shall implement the new maximum resource limit and the exemption of vehicles for the physically disabled (§ 273.12 of this subchapter) no later than October 1, 1981 for all new applicants. State agencies shall convert the current caseload to the new resource limit at the time of recertification, or at any other time the casefile is reviewed prior to recertification.

(iii) State agencies shall implement the student participation provisions of this amendment (§§ 273.1, 273.2, 273.5, 273.7 and 273.11 of this subchapter) no later than October 1, 1981 for all new applicants. Current caseload shall be converted at the time of recertification or any time the casefile is reviewed prior to recertification.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. The revisions of the table of contents, §§ 273.1(b)(6), 273.1(b)(7), 273.7(f)(1), 273.7(h), 273.7(h)(1), 273.8(b), 273.8(e)(3), 273.8(h)(3), 273.8(i)(4), 273.8(j), 273.9(c)(10)(v), 273.11(c), and 273.12(a)(1)(v), published at 45 FR 46040–46042 on July 8, 1980, are adopted as final.

§§ 273.2, 273.7, 273.8, 273.9 [Amended]

4. The removal of §§ 273.2(f)(2)(iii), 273.7(f)(2), 273.7(i)(2)(vi), 273.8(e)(11)(viii), 273.8(e)(11)(ix), 273.8(e)(11)(x), 273.9(c)(10)(ix), and 273.9(c)(10)(x), published at 45 FR 46040–46042 on July 8, 1980, are adopted as final.

§ 273.8 [Amended]

5. The new paragraph § 273.8(e)(11)(vii), published at 45 FR 46041 on July 8, 1980, is adopted as final.

6. Section 273.5 is revised to read as follows:

§ 273.5 Students.

(a) *Applicability.* Any person who is (1) between the ages of 18 and 60; (2) physically and mentally fit; and (3) enrolled at least half time in an institution of higher education shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements of paragraph (b) of this section. This section does not apply to persons age 17 or under, persons age 60 or over, persons physically or mentally disabled, persons attending high school, persons participating in on-the-job training programs, persons not attending school at least half time, or to persons enrolled full-time in schools and training programs which are not institutions of higher education.

(b) *Eligibility Requirements.* (1) In order to be eligible to participate in the Food Stamp Program, any student (as defined in paragraph (a) of this section) shall meet at least one of the following criteria:

(i) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;

(ii) Participate in a Federally financed work study program (funded in full or in part under Title IV–C of the Higher Education Act of 1965 as amended) during the regular school year;

(iii) Provide more than half the support of one or more dependent household members (as discussed in paragraph (b)(4) of this section) or be the spouse of a person who provides more than half the support of one or more dependent household members; or

(iv) Be enrolled in an institution of higher education as a result of participation in the Work Incentive Program under Title IV of the Social Security Act, as amended (42 U.S.C. 602).

(2) The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

(3) Eligibility as a result of participation in the Work Incentive Program under Title IV of the Social Security Act shall be deemed to continue as long as the student maintains continuous enrollment as specified in paragraph (b)(2) of this section.

(4) In determining if a household member furnishes more than half the support of a dependent, the following principles apply:

(i) If the dependent is a spouse, a minor child under the control of the student or spouse, or a relative of the student or spouse, such as a parent or grandparent, and that relative has little or no income of their own, the student shall be considered as providing the support for that person regardless of the income sources from which the student derives that support.

(ii) In the case of other dependents, such as unrelated adults, minor children not under the parental control of the student or spouse, or related adults who have their own source of income, the State agency shall make a case-by-case determination as to whether or not the student or spouse is providing these individuals with half of their support during the certification period. Total support is the sum of: The fair rental value of lodging furnished; all expenses paid or incurred directly by or for the dependent, such as food, clothing, medical expenses and dental care, recreation, transportation, and similar necessities; and a proportionate share of these or similar expenses that cannot be attributed directly to a particular individual, such as the cost of food bought in common for the entire household. To qualify for the exemption in paragraph (b)(1)(iii), of this section, the student and/or spouse must provide from their own funds or in-kind contributions for over half of the individual's support needs, regardless of the source of the funds.

(iii) The individual claimed as a dependent must be a member of the same household as the student or spouse.

(5) The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household, as specified in § 273.11(d) of this part.

7. In § 273.7, paragraph (b)(1)(ix) is revised to read as follows:

§ 273.7 Work registration requirements.

* * * * *

(b) *Exemptions from work registration.* * * *

(1) * * *

(ix) A student enrolled at least half time in any recognized school, training program, or institution of higher education; provided that students enrolled at least half time in an institution of higher education have met the eligibility conditions in § 273.5 of this part. A student enrolled in a school, training program or institution of higher education shall remain exempt during normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer). Persons who are not enrolled at least half time or who experience a break in enrollment status due to graduation, expulsion, or suspension, or who drop out or otherwise do not intend to return to school, shall not be considered students for the purpose of qualifying for this exemption.

* * * * *

8. In § 273.8, paragraph (h)(1) is revised, paragraphs (h)(2) through (h)(5) are redesignated as paragraphs (h)(3) through (h)(6) and a new paragraph (h)(2) is added to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(h) *Handling of licensed vehicles.*

* * *

(1) The entire value of any licensed vehicle shall be excluded if the vehicle is:

(i) used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, for example, the vehicle of a traveling sales person or of a migrant farmworker following the work stream;

(iv) necessary for subsistence hunting or fishing;

(v) used as the household's home and, therefore, excluded under paragraph (e)(1) of this section; or

(vi) necessary to transport a physically disabled household member regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

(2) The exclusion in paragraphs (h)(1)(i) through (v) of this section will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

* * * * *

§ 273.9 [Amended]

9. In § 273.9, paragraph(b)(3) is amended by removing the phrase "for failing to comply with the student work registration requirements in § 273.7(b)(9)(i)" and by removing the comma preceding that phrase.

Note.—This rule does not contain recordkeeping and reporting requirements requiring clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Authority: 91 Stat. 958 (7 U.S.C. 2011–2027).

(Catalog of Federal Domestic Assistance Program No. 10551 Food Stamp)

Dated: August 18, 1981.

G. William Hoagland,

Administrator.

[FR Doc. 81-24730 Filed 8-24-81; 8:45 am]

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federal register

Tuesday
August 25, 1981

Part IV

Department of Education

Interim Procedures for Listing Accrediting and State Approval Agencies

Part IV

Department of Education

DEPARTMENT OF EDUCATION

Interim Procedure for Listing Accrediting and State Approval Agencies

AGENCY: Department of Education.

ACTION: Notice—interim procedure for listing accrediting and State approval agencies.

SUMMARY: The Secretary, until the activation of the National Advisory Committee on Accreditation and Institutional Eligibility, lists nationally recognized accrediting agencies and State approval agencies that he determines to be reliable authorities concerning educational quality, in reliance on staff analyses and public comment on these analyses.

DATE: Comments on these analyses must be received no later than September 28, 1981.

ADDRESS: Comments may be submitted to Dr. L. W. Friedrich, Acting Chief, Agency Evalution Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, S.W. (Room 3030, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Friedrich, Telephone: (202) 245–9873.

SUPPLEMENTARY INFORMATION: This document advises the public that the Secretary, in listing accrediting agencies and State approval agencies, as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3), and other statutes, is following an interim procedure.

Previously the Secretary relied on an advisory committee to review reports and petitions and to take public comment, including oral testimony. With the aid of this review and comment, the advisory committee in accordance with the criteria in 34 CFR 603.6, formulated recommendations to the Secretary respecting accrediting agencies.

In the absence of a functioning advisory committee, the Secretary, in order to initially list or to renew the listing of any accrediting agency or association under 34 CFR 603.4 and 603.5, is using both staff analyses and public comment in reaching determinations.

This notice provides the names of the first group of agencies, the reports and petitions of which the Secretary is reviewing. The Department's Eligibility and Agency Evaluation Staff has made an analysis of each of these agencies according to the criteria in 34 CFR 603.6.

The Secretary is offering the public an opportunity to comment on these analyses before the Secretary makes determinations on them.

The reports and petitions of the following agencies are being reviewed:

Reports

American Academy of Microbiology, Committee on Postdoctoral Educational Programs.

Recommendation: Accept the report.

American Medical Association, Committee on Allied health Education and Accreditation (as coordinating agency for allied health education and accreditation).

Recommendation: Accept the report.

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with:

a. American Association of Blood Banks, Subcommittee on Accreditation.

Recommendation: Accept the report.

b. American Medical Record Association, Council on Eduation.

Recommendation: Accept the report.

c. American Occupational Therapy Association, Accreditation Committee.

Recommendation: Accept the report.

d. Joint Review Committee on Education for Physician's Assistants.

Recommendation: Accept the report.

e. Joint Review Committee on Respiratory Therapy Education.

Recommendation: Accept the report.

f. Joint Review Committee on Education for the Surgical Technologist.

Recommendation: Accept the report and inform the agency that is to demonstrate full compliance with criteria in (a)(3)(iii)(A) and (b)(5) in its next review.

American Podiatry Association, Council on Podiatry Education.

Recommendation: Accept the report.

Petitions for Continuation of Recognition

Association of Independent Colleges and Schools, Accrediting Commission.

Recommendation: Continue recognition for four years. The Commission should provide, in one year, a report on improvement in its compliance with criteria (c)(4) (reflects community of interests in the composition of its policy and decision-making bodies), (a)(3)(iii)(A) (students, faculty, and others are to be involved in institutional self-studies), (b)(2)(iv) (has a written complaint procedure).

Middle States Association of Colleges and Schools, Commission on Higher Education.

Recommendation: Continue recognition for four years.

Southern Association of Colleges and Schools, Commission on Colleges.

Recommendation: Continue recognition for four years.

Petition for Change of Scope of Recognition, and Change of Designation of Preaccreditation Status

Association of Theological Schools in the United States and Canada (change of scope from "Accreditation of graduate and professional degree programs offered by schools of theology" to "Accreditation of free standing schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology". Change of designation of preaccreditation status from "Authorization of Self-Study" to "Candidate for Accredited Membership").

Recommendation: Approve the change of scope, and the new designation of the Association's preaccreditation status.

Invitation to Comment

A copy of the analysis of any of the reports and petitions submitted by the agencies to be reviewed by the Secretary may be obtained from Dr. Lawrence W. Friedrich.

Dated: August 20, 1981.

William C. Clohan, Jr.,

Acting Secretary of Education.

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federal register

Tuesday
August 25, 1981

Part V

Department of Agriculture

Federal Grain Inspection Service

Fees for Original Inspection, Official Weighing, Supervision of Weighing, and Supervision and Administration of Official Services

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Original Inspection, Official Weighing, Supervision of Weighing, and Supervision and Administration of Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 which becomes effective on October 1, 1981, amends the United States Grain Standards Act to require the Federal Grain Inspection Service (FGIS or Service) to collect fees to cover, as nearly as practicable, the estimated cost of official inspection and weighing services including related administrative and supervisory costs. The amendment further requires that delegated States and designated official agencies shall pay fees to cover the estimated costs to the FGIS of supervising those agencies. Therefore, the Federal Grain Inspection Service is publishing fees to recover the costs as mandated by the U.S. Grain Standards Act, as amended.

Public meetings will be held to discuss the fee schedules.

DATES: Effective Date: October 1, 1981. Comment Date: Comments are due on or before October 26, 1981.

Public meetings: September 3, 1981 from 8:30 a.m.-11:30 a.m., Washington, D.C.; September 4, 1981 from 8:30 a.m.-11:30 a.m., St. Louis, MO.

ADDRESS: Written comments must be submitted in duplicate on or before (60 days from date of publication). Comments may be forwarded to Lewis Lebakken, Jr., Director, Issuance and Coordination Staff, USDA, FGIS, Room 1127 Auditors Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 447-3910. All written comments received will be made available for public inspection at the above office during regular business hours (7 CFR 1.27(b)).

Public meetings: September 3, 1981: Thomas Jefferson Memorial Auditorium, Room 1072, South Agriculture Bldg., 1400 Independence Ave., SW., Washington, D.C.

September 4, 1981: Stan Musial and Biggie's Airport Hilton Inn, 10330 Natural Bridge Rd., St. Louis, MO 63134.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 447-3910.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under USDA procedures and Executive Order 12291 and has been determined to be "nonmajor" because it does not meet the criteria contained therein for major regulatory actions.

David C. Mangum, Acting Administrator, FGIS, has determined that a situation exists which warrants the publication of this final action without the opportunity for a prior public comment period in order to provide the grain industry, delegated States and/or designated official agencies with time to make necessary adjustments prior to the effective date of October 1, 1981. This action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

David C. Mangum, Acting Administrator, FGIS, has also determined that this interim final rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164-1170) because: (1) It applies to those limited number of States and official agencies delegated and designated under the act; (2) most users of the FGIS services are not considered to be small entities; and (3) if there is any impact, the administrator is required by statute to make the services available and to recover costs of the services from the users of the services.

Public Meetings

Two public meetings are scheduled to discuss these fee changes. These meetings will be held: September 3, 1981, from 8:30 a.m.-11 a.m. at the Thomas Jefferson Memorial Auditorium, Room 1072, South Agriculture Building, 1400 Independence Avenue, SW., Washington, D.C.; and, September 4, 1981, from 8:30 a.m.-11 a.m., at the Stan Musial & Biggie's Airport Hilton Inn, 10330 Natural Bridge Road, St. Louis, Missouri 63134. Representatives from the grain industry, delegated States, designated official agencies, and other interested parties are invited to attend. At these meetings, Dr. K. A. Gilles, Administrator, FGIS, plans to discuss the legislation which required the implementation of the fees, the level and application of the fees, and the procedures for the collection of such fees. A question and answer period will be scheduled following Dr. Gilles' presentation and written comments will be accepted from interested parties.

Official Grain Inspection and Weighing Fees

The Omnibus Budget Reconciliation Act of 1981, which becomes effective October 1, 1981, amends sections 7(j) and 7A(1) of the U.S. Grain Standards Act to require that fees for inspection and weighing services cover, as nearly as practicable, the estimated costs to the FGIS incident to providing such services, including related administrative and supervisory costs. It further amended these sections to require that delegated States and designated official agencies shall pay fair and reasonable fees to cover the estimated costs to the FGIS of supervision of these agencies. It also amended these sections to require that failure to pay such fees by delegated States or designated official agencies within 30 days after due shall result in automatic termination of the delegation or designation, which may be reinstated upon payment of the fee, with interest, as prescribed by the Secretary.

The Omnibus Budget Reconciliation Act of 1981 also added a new section (7C) to the U.S. Grain Standards Act which provides that the total administrative and supervisory costs that may be incurred for inspection and weighing activities shall not exceed 35 percent of the total costs for such activities carried out by the Service.

Accordingly, FGIS is responsible for the development and implementation of fee schedules for services provided under the U.S. Grain Standards Act by October 1, 1981.

In an effort to structure a fee program within the time available, the Administrator of FGIS appointed a task force to develop the fees. In its study, the task force utilized all the data and information available to FGIS. The task force analyzed various methods of assessing fees to recover FGIS' costs in providing the services as mandated by the Act. A method was selected which utilized primarily an hourly fee for Federal activities, including supervision and administration, and a unit fee per certificate for supervision of delegated State and designated official agency activities. The hourly method was selected for most of the services provided by FGIS at export port locations because currently most FGIS services at those locations are assessed on an hourly basis. A unit fee per certificate method was selected for State and private agencies and some Federal services. This method assumes FGIS supervision time and costs are directly related to the work effort involved per certificate in the

performance of official weighing and inspection activities by official agencies and FGIS.

The Omnibus Reconciliation Act authorizes FGIS to assess user fees to collect a maximum of $21,274,400 for supervision and administration. This amount represents 35 percent of FGIS' fiscal year 1982 budget for inspection and weighing, including supervision and administration. Although a funding level of $21,274,400 is authorized for FY 1982, FGIS in an attempt to keep fees as reasonable as possible is projecting the cost of administration and supervision of the official inspection and weighing programs at approximately $19,000,000.

FGIS believes it can maintain an effective supervision program and perform its administrative activities with this level of funding for FY 1982. Several actions and conditions may impact on the future level of required user fees. These include the level of use of official services by the industry where the service is optional; proposed restructuring of the FGIS organization, support staffs, and the supervision program; and further experience with the implementation of fees mandated by the U.S. Grain Standards Act, as amended. In keeping with administration goals, FGIS will monitor and periodically adjust its fees to maintain them at the minimum level needed to carry out an effective program.

Therefore, in keeping with its need to provide services and maintain fees at a cost effective level, the FGIS fee schedules for official inspection and weighing services as contained in § 800.71 of the regulations are being revised to reflect the requirements of the U.S. Grain Standards Act, as amended.

Accordingly, 7 CFR 800.71(a) is hereby revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) *Official inspection and weighing services.* The fees shown in Schedules A and B apply to official grain inspection and weighing services performed by the Service in the United States and Canada. The fees shown in Schedule C apply to official grain inspection and weighing services performed by delegated States and designated official agencies in the United States. Failure of a delegated State or designated official agency to pay to FGIS the fees prescribed in Schedule C within 30 days after due shall result in automatic termination of such delegation or designation, but may be reinstated upon payment of such fees, with interest, as prescribed by the Secretary.

Table 1

[Schedule A.—Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in the United States [1]]

Inspection services (bulk or sacked grain)	Original inspection service	Reinspection and appeal inspection service [2] [3]
(1) Official sample-lot inspection service (white certificate):		
(i) For official grade and official factor determinations:		
(A) Online inspection services (per man-hour per Service representative): [4]		
(1) Contract service:		
(a) Regular workday	$18.70	([6])
(b) Nonregular workday	22.10	([6])
(2) Noncontract service:		
(a) Regular workday	21.10	([6])
(b) Nonregular workday	24.70	([6])
(B) Other than online inspection services:		
(1) Truck or trailer (per truck or trailer or part truck or part trailer)	10.80	$16.00
(2) Boxcar (per car or part car)	15.50	19.60
(3) Hopper car (per car or part car)	19.75	23.60
(4) Barge (per 1,000 bushels or fraction thereof)	3.05	3.50
(5) Ship, bin, and all other lots of grain (per 1,000 bushels or fraction thereof) (but see 2 below)	([7])	3.50
(C) Based on official file sample (any lot or part lot)	([7])	[10] 13.50
(ii) For official factor or official criteria determinations:		
(A) Based on a sample used for official grade and official factor determinations not obtained during loading or unloading:		
(1) Factor determination (per factor)	5.00	5.45
(2) Protein test (per sample)	4.05	4.35
(B) Based on new sample (any lot or part lot)	([7])	([7])
(2) Special inspection services (sampling, stowage examination, testing of inspection equipment, demonstrating official inspection functions, furnishing standard illustrations, and related services) (per man-hour per Service representative): [8]		
(i) Regular workday	21.10	21.80
(ii) Nonregular workday	24.70	25.50
(3) Warehouseman's sample-lot inspection service (yellow certificate) or submitted sample inspection service (pink certificate):		
(i) For official grade and official factor determinations (per sample)	8.85	13.50
(ii) For official factor or official criteria determinations:		
(A) Factor determination (per factor)	5.00	5.45
(B) Protein test (per sample)	4.05	4.35
(4) Minimum fee per service request (applicable when the request for service is cancelled after the Service representative(s) arrives at the point of service or when the service is performed in 2 hours or less when hourly rates apply—fee does not include standby):		
(i) Grain in trucks, trailers, boxcars, or hopper cars	([6])	([6])
(ii) All other lots of grain and special services (per man-hour per Service representative) (2 hour minimum):		
(A) Regular workday	21.10	21.80
(B) Nonregular workday	24.70	25.50
(5) Standby (per man-hour per Service representative): [9]		
(i) Regular workday	21.10	21.80
(ii) Nonregular workday	24.70	25.50
(6) Extra copies of certificates (per copy): [11]	2.50	2.50

[1] The fees include the cost of performing official inspection and official class X weighing by Service representatives and related supervision and administration costs and the cost of class Y weighing functions. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see § 800.72, paragraphs (a) and (b).

[2] If it is found that there was a material error in the inspection from which a reinspection, an appeal inspection, or a Board appeal inspection is taken, the specified reinspection, appeal inspection, or Board appeal inspection fee shall not be assessed, but see § 800.72(b) for fees that are assessed in all instances. For definition of a material error, see § 800.0(b)(45) and § 800.73(h).

[3] Board appeal inspections are based on file samples. The fee for Board appeal inspection service shall be $34.00 per sample during a regular workday and $40.00 per sample during a nonregular workday except for protein which shall be $15.00 per sample.

[4] Online inspection services include all inspection services which are based on official samples obtained from a flowing stream of grain during the loading or unloading of grain.

[5] Not applicable.

[6] The unit fee.

[7] Same fees as in (1)(i)(B), plus applicable sampling charge—see (2).

[8] Only one inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[9] For application of fee for standby, see § 800.72(b)

[10] If at the request of the Service a file sample is located and forwarded by an agency for official appeal, the agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service for the cost of locating and forwarding the sample(s).

[11] For application of fee for extra copies of certificates, see § 800.160(c)(3).

Table 2

Weighing services (bulk or sacked grain)	Official weighing services					
	Specified inspection point				Noninspection point	
	Contract service		Noncontract service		Contract service	
	Regular workday	Non-regular workday	Regular workday	Non-regular workday	Regular workday	Non-regular workday
(1) Official weighing services (class X) (per man-hour per Service representative)	$20.60	$24.00	$23.00	$26.60	$20.60	$24.00
(2) Special weighing services, (stowage examination, testing of weighing equipment, checkweighing sacked grain, checkloading sacked grain, demonstrating official weighing functions, and related services) (per man-hour per Service representative) [8]	20.60	24.00	23.00	26.60	20.60	24.00
(3) Minimum fee per service request is 2 hours per Service representative (applicable when the request for service is cancelled after the Service representative(s) arrives at the point of service or when the service is performed in 2 hours or less when hourly rates apply—fee does not include standby) (per man-hour per Service representative)	[9]	[9]	23.00	26.60	[9]	[9]
(4) Standby (per man-hour per Service representative) [8]	[9]	[9]	23.00	26.60	[9]	[9]
(5) Extra copies of certificates and reports (per copy) [11]	2.50	2.50	2.50	2.50	2.50	2.50

NOTE.—The footnotes for table 2 are shown at the end of table 3.

[Table 3]

Official services (bulk or sacked grain)	Supervision of weighing services (class Y)
Export elevators at export port locations:	
(1) Barge (per barge or part barge)	$5.00
(2) Boxcar (per car or part car)	1.00
(3) Hopper car (per car or part car)	1.00
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	0.50
(5) Unit trains (per each car or part car of unit train)	1.00
(6) Extra copies of certificates and reports (per copy)	2.50
All other locations:	
(1) Barge (per barge or part barge)	10.00
(2) Boxcar (per car or part car)	3.50
(3) Hopper car (per car or part car)	3.50
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	2.50
(5) Unit trains (per each car or part car of unit train)	3.50
(6) Extra copies of certificates and reports (per copy)	2.50

Schedule B.—*Fees for Official Inspection and Weighing Services* [1] *(Including Supervision and Administration Services) Performed by the Service in Canada* [2]

[Table 1]

Services (bulk or sacked grain)	Regular workday	Non-regular workday
(1) Original inspection, or official weighing, or special services: [3]		
(i) Contract service (per man-hour per Service representative)	$24.35	$28.35
(ii) Noncontract service (per man-hour per Service representative)	34.35	40.35
(2) Reinspection and appeal inspection (per man-hour per Service representative) [4] [5]	36.35	42.35
(3) Board appeal inspection (per sample) [4] [6]	38.35	44.35
(4) Minimum fee per Service request:		
(i) Noncontract, original inspection, or original weighing, or special services (per Service representative) [4]	84.35	112.35
(ii) Reinspection, or appeal inspection (per Service representative) [4] [7]	100.35	118.35
(5) Standby (per man-hour per Service representative) [8]	34.35	40.35
(6) Extra copies of certificates (per copy) [9]	2.50	2.50

[1] Supervision of weighing (class Y) fees in Canada will be assessed at the rates shown in Schedule A, table 3.

[2] The fees include the cost of performing official inspection and official class X weighing by service representatives and related supervision and administration costs and the cost of class Y weighing functions. For incidental costs included in the fees, and fees in addition to the unit and hourly fees, see § 800.72, paragraphs (a) and (b).

[3] Special services include, but are not limited to the following: sampling, stowage examination, testing of inspection or weighing equipment, demonstrating official inspection or weighing functions, furnishing standard illustrations, checkweighing of sacked grain, checkloading of sacked grain, and related services.

[4] If it is found that there was a material error in the inspection from which a reinspection, an appeal inspection, or a Board appeal inspection is taken, the specified reinspection, appeal inspection, or Board appeal inspection fee shall not be assessed, but see § 800.72(b) for fees that are assessed in all instances. For definition of a material error, see § 800.0(b)(45) and § 800.73(h).

[5] Appeal inspections are based on file samples. Board appeal inspections for protein shall be $15.00 per sample.

[6] Applicable when the requested service is performed in 3 hours or less, or the request for service is cancelled after the Service representative(s) arrives at the point of service.

[7] Not applicable if the reinspection or appeal inspection is performed concurrently with an original inspection.

[8] For application of fee for standby, see § 800.72(b).

[9] For application of fee for extra copies of certificates, see § 800.160(c)(3).

Schedule C.—*Fees for FGIS Supervision and Administration Services for the Official Inspection and Weighing Services Performed by the Delegated and/or Designated Agencies in the United States* [1]

[Table 1]

Inspection services (bulk or sacked grain)	Official inspection and reinspection services
(1) Official sample-lot inspection service (white certificate):	
(i) For official grade and official factor determinations:	
(A) Truck or trailer (per inspection) [2]	$2.00
(B) Boxcar (per inspection) [3]	2.45
(C) Hopper car (per inspection) [3]	2.70
(D) Barge (per inspection) [3]	8.70
(E) Ship (per ship) [3]	79.50
(F) All other lots (per inspection) [3] [4]	1.55
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection)	1.10
(B) Protein test (per inspection) [3] [5]	0.25
(2) Stowage Examination services:	
(A) Ship (per stowage certificate)	7.60
(B) Other carriers (per stowage certificate)	0.45
(3) Warehouseman's sample-lot inspection service (yellow certificate) or Submitted sample inspection service (pink certificate):	
(i) For official grade and official factor determinations (per inspection)	1.55

Schedule C.—*Fees for FGIS Supervision and Administration Services for the Official Inspection and Weighing Services Performed by the Delegated and/or Designated Agencies in the United States* [1]—Continued

[Table 1]

Inspection services (bulk or sacked grain)	Official inspection and reinspection services
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection)	1.10
(B) Protein test (per inspection) [3] [5]	0.25
(4) Reinspections (per inspection) [3]	1.55

Note.—The footnotes for table 1 are shown at the end of table 2.

[Table 2]

Official services (bulk or sacked grain)	Official weighing services (class X)
(1) Official weighing services:	
(A) Truck or trailer (per certificate)	$0.50
(B) Boxcar and hopper car (per certificate)	1.25
(C) Barge (per certificate)	11.30
(D) Ship (per certificate) [3]	137.90

[1] The fees include the cost of supervision and administration functions performed by the Service for the official inspection and weighing services performed by the delegated and/or designated agencies.

[2] A fee shall be assessed for each carrier or sample inspected if combined lot certificate is issued or a uniform loading plan is used to determine grade.

[3] A fee shall be assessed per ship regardless of the amount of grain loaded at a specific service point. A fee shall not be assessed for divided original certificates.

[4] All other lots include, but are not limited to, sampling service, condition examination (sacked grain), examination for weevily, bins, and containers.

[5] Fees will be assessed for each sample tested for protein.

* * * * *

(Secs. 8 and 9, Pub. L. 94-582, 90 Stat. 2873, 2877 (7 U.S.C. 79(j), 79a(1)), as amended by Pub. L. 97-35)

Done in Washington, D.C., on August 21, 1981.

David C. Mangum,

Acting Administrator.

[FR Doc. 81-24898 Filed 8-24-81; 10:12 am]

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Vol. 46, No. 164

Tuesday, August 24, 1981

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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 41 FR 32914, August 6, 1976)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 21, 1981

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with Lexington Technical Institute.

WHAT: Special public briefing (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: September 17 at 9:00 a.m.

WHERE: Room 215, Lexington Technical Institute, Cooper Drive, Lexington, Ky.

RESERVATIONS: Call Martha Birchfield, (606) 258-4919.



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